U. S. SUPREME COURT.

No. 247.

THE STATE OF LOUISIANA,
EX-RELATIONE THE SOUTHERN BANK,
vs.
THE CITY OF NEW ORLEANS.

Brief for the City of New Orleans, Defendant in Error.

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There is in this case, a motion to dismiss for want of jurisdiction with a brief filed in support of it—to which the Court is referred This brief is on the merits.

STATEMENT OF THE CASE.

The relator, the Southern Bank of New Orleans, as holder of coupons of the bonds of the City of New Orleans, issued under the act of the Legislature of Louisiana, approved 23d February, 1852, known as the Consolidation Act, applied to the 3d District Court of the parish of Orleans, to compel the city to compel the authorities to levy a special tax to pay the interest upon certain bonds issued by the city, under the act of the Legislature of the State, approved 23 February, 1852. Acts 1852, p. 53, § 37. (See appendix filed with this brief, p. .) The decision of the 3d District Court, in favor of the tax, was carried by appeal to the Supreme Court of the State, and the decision of that Court was against the tax, reversing the decision of the lower court. The case is now before this Court

on the writ of error, sued out by the Southern Bank, to reverse the decision of the highest court of the State. Record, pp.

The petition of the Southern Bank, claiming the tax substantially averred: the ownership by the relator of certain unpaid coupons of interest of the bonds issued by the City of New Orleans, under the act of 1852: that the tax to pay the bonds and interest constituted a contract between the city and the bondholders, which no legislation could impair; that the city authorities had thrown impediments in the way of the bondholders to prevent payment of the obligations; that the Legislature of the State had enacted act No. 53 of 1874, and act No. 31 of 1876, the first having for its object to dispense the city from fulfilling its obligations under said act, in respect to levying a tax to provide a sinking fund for the bonds, and the last of which is charged to have been passed, to prohibit the city from levying any tax for the bonds, or any tax whatever, except the tax authorized by that act: the petition further alleges that these statutes of the State of 1874 and 1876, violate the vested rights of petitioner under his contract, and are repugnant to the article 1st, section 10, of the Constitution of the United States, prohibiting any legislation by the State, impairing the obligation of that contract. The petition complains that the city has issued bonds in violation of the act of 1852, and has levied and applied taxes to pay these "illegally issued bonds." See Record, p.

"The prayer of the petition was, that writs of *mandamus* and "*injunction* issue herein, commanding E. Pilsbury, the Mayor of the "City of New Orleans; J. C. Denis, Administrator of Finance; J. "G. Brown, Administrator of Accounts; John McCaffrey, Adminis- "trator of Improvements; J. D. Edwards, Administrator of Water "Works; Charles Cavanac, Administrator of Commerce; R. E "Diamond, Administrator of Police; J. E. Rengstorff, Administrator "of Assessments, the last seven being members of and composing "the *Council* of said City of New Orleans, at once to levy, by "separate and distinct assessments, and hereafter collect and apply,

"under the provisions of Section 37, of Act No. 71, approved 23d "February, 1852, a special tax of six hundred and fifty thousand "dollars ($650,000) for each of said years 1874, 1875, 1876, 1877, "less coupons paid for 1874 and 1875, to meet the coupons overdue "and unpaid, and to purchase bonds, issued under said section, by "the city, as well as a like tax for the year 1878, for the purpose of "paying the coupons maturing that year and purchasing bonds, as "contemplated by said section 37; and forbidding and enjoining "said Mayor and Administrators from levying any tax, on the real "estate within the limits of said city, which is subject to special "taxation, in favor of the Consolidated Loan Debt, under said "section 37, to the injury and prejudice of said Consolidated Debt, "and without first providing therefor, and that, after due hearing, "said mandamus and injunction be so made, peremptory and per-"petual, and *that the amounts so raised be exclusively applied to coupons "and bonds held by relator and others likewise situated; that all other "obligations issued be annulled*, if found to have been issued without "authority, etc." Record, p.

The answer of the city substantially avers: that the special tax claimed by relator, attempted to be created by the Act of 1852, was and is null and void, because repugnant to the 127th Article of the Constitution of the State of 1845, under which the Act of 1852 was passed, as it was also violative of similar Articles contained in the subsequent Constitutions of the State of 1852, which require taxation to be uniform; that property be taxed in proportion to its value and which prohibited taxing of one species higher than another on which taxes shall be levied. See Constitution of 1845, Art. 127; Constitution 1852, Art. 123; Constitution 1868, Art. 118, printed in Appendix. With this defence, the answer maintains the validity of the legislation impugned by the relator as violative of his supposed contract, the special tax being void for repugnance to the organic law. The answer charges, that as to the taxes claimed by the relator for 1874 and 1875, the consolidated tax for those years had been included

in the general taxes assessed and levied according to law, and the answer further avers that the Act of 1874 impugned by the relator, was passed at the instance of the relator. See Record, p.

Prior to 1852, and from 1836, the city of New Orleans was divided into three municipalities, each having its separate government. See Acts of 1836, p. 28. Each of these distinct corporations, had contracted debts during the period of its existence and this indebtedness was outstanding in 1852. Prior to 1836, the city had but one government, (see acts of 1805, p. 44), and an indebtedness known as the old city debt, contracted from 1805 to 1836, was also existing in 1852. In 1852, the three previously existing municipalities with the adjoining city of Lafayette, which also had a debt, were consolidated by the Legislature into one city. See acts of 1852 already cited, and the supplementary act at p. 55. It thus appears, that when this consolidation act of 1852, was passed there was unpaid, the old city debt, and the debts of the three municipalities, as well as the debt of the city of Lafayette. By the act, the assets and property of the old districts and city of Lafayette, were transferred to the new consolidated city, and all the debts of the old districts and of Lafayette were assumed by the new city as its debt for which it was declared liable, acts 1852, p. 53, sec. 37. (Appendix, p. 39.)

With this corporate debt thus assumed by the city, in the act of 1852, and with the Constitution of 1845, in force with its inflexible mandate that taxation must be equal and uniform; that property must be be taxed according to its value; and that no one species should be taxed higher than another, on which taxes shall be levied, the legislative act of 1852, attempted to create the peculiar tax claimed by the relator.

The act first directed the issue of bonds for the debt, and provided for the tax thus:

"The bonds thus issued shall form a stock to be called the Con-
"solidated Debt of New Orleans. At the time, this Act goes into
"operation, an exact and detailed statement of the indebtedness of
"the old corporation and of each municipality, shall be filed in the
"office of the Comptroller, by the Secretary of the Board of Liquida-
"tors and the municipal comptrollers respectively, when the Com-
"missioners of the Consolidated Debt shall proceed to divide the
"debt of the old corporation between the several municipalities, in
"proportion to the assessed value of real estate within the limits
"of each, according to the State assessment roll for 1851. The
"amount thus apportioned to each, together its individual indebted-
"ness at the time this Act goes into operation, shall constitute the
"separate debt of each municipality, and shall be known as the
"debt of municipality No. One, No. Two, No. Three. The Common
"Council shall, annually, in the month of January, pass an ordinance
"to raise the sum of six hundred thousand dollars, by a special tax,
"on real estate and slaves, to be called the Consolidated Loan Tax,
"and the rate per cent. of said tax, in each municipality, shall be in
"proportion to the indebtedness of each." Acts 1852, p. 53, § 37.

The act it will be seen, totally excepted personal property. The tax was to be laid on real estate and slaves.

The act of 1852 further proposed to tax the same kinds of property, *i. e.*, real estate and slaves, at a different rate per cent. in each of the districts, and within the City of Lafayette, constituted one city by the act.

The old city debt, *i. e.*, contracted from 1805 to 1836, was according to the act, to be divided between the districts and the City of Lafayette, on an arbitrary rule of division, with the municipal debt of each added; and that debt thus ascertained was to determine the rate of taxation to be imposed in *each* of the districts, and in the City of Lafayette, comprising the new city. The rule of division of the old city debt, was not to be the participation of the old districts in creating it, but it was to be apportioned on the basis of

the value of real estate in each in the year 1851. The singular rule of apportionment, of the debt, produced the variance in the rate of taxation, for the rate per cent. of the tax in each district and in the City of Lafayette, was to be in proportion to the debt. See Acts, 1852, p. 53, p. 37, p. 55, pp. 56, 65; appendix, pp. 39, 41.

ARGUMENT.

The first objection to the special tax of 1852, claimed by the relator, is: that it was proposed to levy it upon real estate alone—the slaves included by the act, having passed out of existence. It is charged in the answer, that this total exemption of all personal property, from taxation to pay the corporate debts, in itself, was sufficient to sustain the defence to the tax.

Prior to the Constitution of Louisiana of 1845, taxation was not restricted by the organic law. In the absence of any such restraint, the Louisiana Supreme Court had decided, that it was competent for the city to tax real estate alone. The decision that personal property could be exempted from taxation prior to the Constitution of 1845, is in itself suggestive that the exclusion of that species of property, could not be permitted under a Constitutional requirement of equality and uniformity, whenever that requirement came into existence.

See Oakey vs. New Orleans, 1st Louisiana Reports, pp. 1, 8, 9.

See Duncan vs. 2nd Municipality, 2nd Louisiana Annual Reports, p. 182.

The Constitution of 1845, did introduce the requirement of equality and uniformity in taxation. Its provision was "Taxation shall be equal and uniform throughout the State; after the year 1848 all property on which taxes may be levied in this State shall be taxed in proportion to its value, to be ascertained as directed by law. No one species of property shall be taxed higher than another species of property of equal value on which taxes shall be levied. The Legislature shall have power to levy an income tax,

and to tax all persons pursuing any occupation, trade or profession." Art. 127.

The same provision is repeated in every constitution framed in Louisiana since 1845. See Articles 123, 118, 203 of the Constitution of the State of 1852, 1868, 1879, printed in appendix. Uniformity and equality of taxation, furnish an exhaustive expression. It requires the taxation of all property, at least, it exacts that it shall not be competent for the Legislature, under such a provision in the Constitution, to exempt an entire species. That exemption, was precisely, what the Act of 1852, attempted.

To tax real estate and not tax personal property, at all, for the corporate debts, is plainly repulsive to the idea of uniformity and equality. No distribution of taxes, can be conceived, more distinctly at variance with uniformity and equality, than to select a particular form of property, impose on it the public burdens and exempt another species, in its entirety. It may be true, that perfect equality in taxation, is unattainable. But this maxim can have no influence, in sustaining a discriminating taxation, which rests its load on a class of property, and exempts another. There is no difficulty tangible to the mind, in subjecting both real and personal property, to the taxing power. A discrimination which shall subject the one class, and totally exempt the other, is not therefore, to be explained or defended on the ground of any necessity, inherent in the subject. It must then be conceded, that it is practicable to tax both real and personal property, and if the constitutional rule requires equal taxation, no reason can be assigned for the taxation of the one, and total exemption of the other. Any judicial construction which shall be satisfied with the "equality and uniformity" presented in class taxation, accompanied with the total exemption of another species, would leave but little vitality in the requirement, put in the organic law, to protect against inequality in taxation. If the inequality in taxation in view here, is not within the prohibition of the Constitution, what is? Equality and uniformity, mean

that no class of property can be sheltered from taxation or it means nothing.

Hence, the text books on taxation and judicial decisions, concur that the requirement of equality and uniformity in taxation, forbid the exemption of all personal property. The question has arisen before this court. The constitution of Wisconsin declared "that taxation shall be uniform and taxes shall be levied on such property as the Legislature shall prescribe." Under such a constitution the City of Sheboygan undertook to levy a tax "upon all the real estate within the limits of the city, and did not levy the tax, or any part thereof, upon any other kind of property," that is to say, personal property was excepted, of which there were three or four hundred thousand dollars in the City of Sheboygan. So the case there, was that here, except this tax was to be placed on real estate and slaves.

This Court declared the tax invalid in the Wisconsin case. The basis there for that decision, is amply furnished in the case here. The language of the Court in that case was: "The tax was levied "exclusively upon the real estate of the city. That was a discrimi- "nation in favor of personal property. It was beyond the constitu- "tional power of the Legislature to make any discrimination. "Property must be wholly exempted or not exempted at all. No "partial exemption or discrimination is permitted. To impose cer- "tain taxes exclusively upon one class of taxable property is as "much a discrimination as to vary the rates of the same or other "taxes, upon different classes of property. The latter was attempted "to be done in the city of Janesville. The same result must follow "here. A case illustrating more strongly the wisdom of the rule of "the Constitution, as thus interpreted and the injustice of departing "from it can hardly be imagined." And the Supreme Court of the United States preface the remarks quoted, thus: "We forbear to examine the soundness of the conclusions of the Supreme Court of Wisconsin. They need no support at our hands. We could add nothing to what they have so well and ably said in vindication of

their own views. Such a discussion would encumber this opinion without throwing any new light on the subject."

This tax of 1852, now claimed by the relator, is then, plainly obnoxious to the Constitution of Louisiana, upon the ground alone, that it undertook to make a discrimination in favor of personal property, which is not permitted. This ground is enough in itself, to sustain the defence.

See Gilman vs. Sheboygan, 2d Black Reports, p. 510.

See Cooley on Taxation, p. 143.

Burroughs on Taxation, p. 62.

Again, under the Act of 1852, the amount to be raised by taxation in each district, for the old city debt, is to be ascertained by the value of real estate in each, in 1851. The Constitutional rule, the rule of obvious justice, is, that the actual value of property, at the time the tax is imposed, is to be the basis, on which the amount of taxation and the rate requisite to produce that amount, is to be adjusted. But here, irrespective of the value of property in 1881, the old districts, would each, have to contribute such an amount for the old city debt, as is in proportion to the value of the real estate, within their limits in 1851. The rule of the 37th section is, the debt of the old corporation, is to be divided between the several municipalities, in proportion to the assessed value of real estate within the limits of each according to the assessment roll of 1851, then the tax on real estate and slaves is to be at a rate per cent. in each municipality, as shall be in proportion to the indebtedness of each thus ascertained, the separate indebtedness being added. Thus, the amount to be raised by taxation, in each of the old districts, for the old city debt, supposing that this tax of 1852 can become a reality by the mandate of this Court, is to be measured

by the value of the real estate in each, in the year 1851, not by its value in 1881. All known methods of taxation, in use in countries boasting a Constitution and laws, proceed on the idea that taxation must be graduated by reference to the existing value of the property, which is to produce the amount to be raised. To this end is, the machinery of assessments. To secure the assessment upon existing value, the laws and the Constitution require assessments at stated periods. But in plain subversion of principles so elementary, this tax of 1852 is to be levied for all time to come, until the old city debt is paid, upon a basis of value, as it existed in 1851. Can anything be said to support such taxation, if it could survive all other defenses?

Then, the tax was to be at a different rate per cent. in each of the districts, consolidated into one city by the Act of 1852. Property within the limits of one corporation, subject to the same taxing power, was to be taxed at different rates, according to location. This was plainly subversive of the rule of uniformity and equality, as universally understood and applied. One of the prominent mischiefs, intended to be avoided by the rule, was the subjection of the property of the citizens of a political corporation, to variant rates of taxation, levied by the city or town exercising the power. If such a system was permitted, it would introduce inequalities in the value of property, resulting from capricious and arbitrary taxation. It would manifestly, be oppressive to tax property on one side of a street, at a different rate, from that imposed on property of the same value, on the opposite side. This is precisely what the tax of 1852, sought to do. Could such a system of taxation, receive the faintest toleration, under any government with a constitution controlling the subject? The departure of the

tax of 1852, from the equality and uniformity enjoined by the Constitution of Louisiana, is too obvious to need comment. A reference to the authorities, will suffice to show that this phase alone of the tax of 1852, now claimed to be enforced, was enough to make it directly hostile to the Constitution. As this Court expressed it, construing the significance of uniformity in taxation, the uniformity must be coextensive with the territory, to which the tax applies. If a State tax must be uniform all over the State, *if a county or city tax it must be uniform throughout the extent of the territory to which it is applied.*

See Pine Grove vs. Talcott, 19th Wallace, p. 675.

Burroughs on Taxation, p. 62.

But it is supposed by the other side, that this form of taxation, so repulsive to recognized principles, derives a validity, from the fact that the tax was to be imposed for the antecedent debt of the respective political corporations, united into one city by the consolidation of 1852. It is doubtless true, that when hitherto distinct cities or municipalities, are consolidated, the question of the mode of payment of the antecedent debts, is to be regulated by legislation. It must be so regulated, for the distinct powers of the blended corporations, are usually extinguished by consolidation into one city. Now these debts for which the tax of 1852 was provided, were the debts of the old City of New Orleans, i. e. of the corporation existing from 1805 to 1836, and the debts contracted by each of the old municipalities and the adjoining city of Lafayette, during the period of their existence, as separate political corporations. See act of 1852, section 37. Amendatory legislation, incorporating the city of Lafayette, Acts 1852, p. 56, printed in appendix. Undoubtedly, it was the function of the legislation of 1852, when it consolidated all these hitherto separate political corporations, to provide for the payment of the debts of these corporations, contracted while they each had a separate existence. But there was nothing whatever in the legislation, antecedent to the Constitution of 1845, which gave to the creditors of these old cor-

porations, any right to that peculiar form of taxation described by the act of 1852. There was no basis for these creditors, holding the public obligations, issued prior to the Constitution of 1845, to entitle them to a tax plainly violative of that Constitution, as was this special tax of 1852, now claimed to be in force. True, in 1836, when the old city corporations, as hitherto existing under the act of 1805, became extinct, and the city was divided into three municipalities, each endowed with its own separate government, and power of taxation, there was a provision, that in the event hereafter of the re-union of the municipalities into one city, that their debts created as municipalities, should first be fully paid and satisfied by each, and that no re-union should ever take place but by consent of two-thirds of all the voters. (Acts of 1836, pp. 38, et seq., printed in appendix) But re-union of these municipalities did take place in 1852, without the payment of their debts, and without a vote of two-thirds or any vote, as contemplated by the act of 1836—what then has this legislation of 1836 to do with the question of the validity of the tax levied in 1852, to pay these old debts, not provided for as the act of 1836 contemplated, by full payment before re-union. And equally irrelevant to the validity of this tax of 1852, is the legislation of 1850, referred to by the other side, which attempted to make provision for the payment of the old city debt and of the three municipalities. Bonds were to be issued: the assets of the old corporation, and of the municipalities were to be applied: the debt of the old city was to be divided between the municipalities, on the basis of the real estate valuation in each in 1849: which share was to be added to the debts of each, and a tax levied in each municipality on all movable and immovable property. See Acts, 1850, p. 292. This was an effort to pay the debts; and it is to be observed that the tax proposed in 1850, unlike that of 1852, was to be equal and uniform in each municipality, i. e., was to be imposed upon all real and personal property, and each municipality was then a separate political corporation.

But all these provisions failed: in 1852 the debts were unpaid, and it was the burden of the new consolidated city, to provide for them. The creditors, at that time, stood clothed with no vested right, with respect to these debts, except to have them paid. Antecedent legislation had given them no claim to any special provision, or to a particular form of taxation. This antecedent legislation can have no effect to validate the taxation devised in 1852, to pay these corporate debts. The tax of 1852 is to be determined solely by the Constitution of the State, under which the tax was sought to be created; and by which it is submitted, it was peremptorily forbidden.

The legislature of 1852, did assume the province of providing for the payment of these debts of the pre-existing corporations, consolidated by the legislature of that year. By the consolidation act, the debts of the old city, of the three municipalities, and of the city of Lafayette, were all assumed by the new consolidated city; and all the assets of the corporations thus blended, were transferred to the new city. See 37th section and appendix. There was a complete transfer, of all the assets, and of all the debts of the antecedent corporations, to the new consolidated city. There was an obliteration of the old corporations, and of all the powers of taxation and government they had possessed. What tax could the consolidated city levy to pay these debts, which by express assumption had become aggregated as its debt, is the question to be determined? What power of taxation could the city exert for these, or for any purposes, not subordinated to that plain requirement of the Constitution, that it must be equal and uniform, i. e., uniform throughout the limits of the taxing district, the whole city, and levied upon all property, real and personal? The city of New Orleans, by the Act of 1852, did undertake to levy a tax, the reverse of equality and uniformity. The consolidation of 1852, was simply the blending of distinct corporations into one. It created one government; one taxing power. It has not been hitherto considered, that the unity of the taxing power, in respect to the burdens it imposed, was to be disturbed by the

very fact, that substituted one source of taxation, for the different agencies, displaced by the consolidation, of hitherto distinct corporations. The Act of 1852, however, sought, after consolidation, to perpetuate variant rates of taxation, within the limits of the new city. The enlargement of territorial boundaries, so as to take in adjacent municipal subdivisions or towns, is not infrequent, in the growth of cities. But the taxing power, to pay corporate debts, is not to be by a rule different from that the constitution prescribes, because of the enlargement of the corporate, boundaries and the consequent assumption by the new municipal government, of the debts of the blended corporations. So, when, in 1852, these old municipalities and the City of Lafayette became merged, the power of taxation to be exerted by the consolidated city, whether to pay debts new or old, or of whatever origin, became subject to the constitutional rule, of equality and uniformity, in taxation. As this Court expressed it in the Wisconsin case, the uniformity must be co-extensive with the territory to which the tax applies. "If a State tax, it must be im-"posed all over the State. If a county *or city tax, it must be uniform* "*throughout the city or county*" Pine Grove Township vs. Talcott, 19th Wallace, p. 675. The Supreme Court of Louisiana announces the same rule of uniformity, and still more to the point, that the rule has no exception, because the corporation boundaries have been extended, the case in 1852, when the tax claimed here, was attempted to be created. "The principle is settled, that the Legislature may, without the infringement of constitutional rights extend the boundaries of a city, and emb ace new territory, but *it is without the power to authorize the city to levy any other* than an equal tax upon all real and personal property of the city," is the syllabus of the decision of the Supreme Court of Louisiana. City vs. Cazelar, 27th Louisiana Ann., p. 156.

What the elementary principle of taxation, announced in the Constitution of Louisiana, and maintained with so much force, in the decisions cited, so plainly forbade, is precisely what this Act of

1852 sought to do, *i. e.*, to levy a tax upon the property of the city *not equal and uniform*, but a tax adjusted by location, so that two houses of the same value, but on opposite sides of a street were to be taxed differently.

The case of the extension of the corporate boundaries, and the consequent enlargement of the taxing territory, the condition brought about by the Act of 1852, instead of relaxing the rule of uniformity and equality, to be observed by the taxing power, makes it more imperative, as is expressed in the Louisiana decision cited, *i. e.*, while the city may be enlarged, there is no power to levy within that city, any other than an equal and uniform tax—the reverse of this tax of 1852.

So, this Court will readily appreciate that the unconstitutional features of this tax of 1852, became so apparent; its burdens so grievous, that in 1856, within four years from its attempted creation, the Legislature of 1856 expunged it from the statute book. See Act of 1856, p. 68—Appendix.

Thus the Court has been presented, with the two views on the equality and uniformity provision in the Constitution. First, that it forbade the exemption of personal property. Second, that it equally forbade taxation to be exercised on the property of the city by different rates, both of which obnoxious features the Act of 1852, conspicuously attempted to introduce. Either objection in fatal. If it could possibly be maintained, that the Louisiana Supreme Court of an earlier period, sustained class taxation, or rather the rule of selection, and contented itself with uniformity on the selected class, a proposition to be considered hereafter, still, that would not sustain this Act of 1852 against the other objection so well put in the text writers, so firmly sustained by adjudicated cases, so obvious to the mind, as the necessary result of the uniformity enjoined,—that no legislation can authorize taxation by a political corporation, by different rates, that is to subject property in

the same city to a different rate per cent. of taxation according to locality. Such a taxation can find no countenance or support. In itself, it crushed the Act of 1852, and this Court is powerless to establish such taxation now, nor was it defensible at any time.

The Act of 1856, to which allusion has been made already, was passed, as its preamble expresses, "to limit and equalize municipal taxation in the City of New Orleans." Then follows the recital of the abuses, arising from unequal taxation under the Act of 1852, which this Court is now asked to enforce, and the preamble concludes, "it is deemed prudent and expedient by this general assembly, to place some restraint upon the power of municipal taxation *to render the same equal and uniform according to the principles of justice and the provisions of the Constitution of the State.*" The preamble alludes to the public remonstrances against unequal taxation, and the demand of the people that it should be equalized in the City of New Orleans. The Act required the levy of a tax on real estate and on personal property, at the rate not to exceed $1\frac{1}{2}$ per cent.: prohibited the Council from ever levying any tax whatever on real estate, or slaves, or movables, which shall not be equal and uniform within the limits of or through the several districts of the city as now organized. It made a provision, in favor of this consolidated debt, that the amount raised should be enough to pay the interest of the present city debt, together with the gradual reduction of the capital of the consolidated debt as required by the laws now in force. Act 1856, pp. 68–9, *ibid.* p. 148, §42.

The causes that dictated the legislation, are obvious. The burdens of this Act of 1852, the enforcement of which is now asked at the hands of this Court, could no longer be supported. The crushing weight of taxation, it imposed on real estate and slaves, caused the people to feel the invidious discrimination, in favor of personal property, totally exempted. The operation of different rates of taxation upon property within the same corporate limits; the taxing of a house on one side at a higher rate than a house of the same value

on the opposite side of a street, arrested attention as an abuse; suggested to the popular mind whether such a system of taxation could find the slightest support under a Constitution whose mandate was uniformity and equality in taxation, and the legislature followed promptly the popular appeal.

Although ample provision was made for consolidated bonds by that, as well as by future legislation, until the city became loaded down with embarrassments deemed inextricable, yet it is none the less true, and this is the important feature in this discussion, that this Act of 1856 swept away the tax of 1852, now claimed here, and forever after prohibited it by the expressive words: "That in no case shall it be lawful for the council to levy any tax whatever, whether on real estate or slaves, which shall not be equal and uniform within the limits of or through the several districts of said city as now organized." Nor is it less true, that this special tax of 1852 was superseded by the legislation of 1856, because subsequently, and up to the abolition of slavery in 1870, the city in distributing the general tax, it was authorized to exact, levied the consolidated tax on real estate and slaves, and up to 1870 on real estate alone. At the same time personal property was taxed at the same uniform rate levied on real estate and slaves, and while real estate and slaves were taxed by the city for the consolidated interest and sinking fund, the equality was accomplished by taxing personal property for other corporate expenses. In effect, every tax-payer paid but one rate on all property, and the variance of rates was ended. See tables of tax, Rec. pp.

There remains to be noticed the claim on the other side, that the Supreme Court of the State, in its earlier decisions, has maintained the validity of this tax, and it is urged that the bondholders cannot now be affected by contrary decisions. But this support fails when the decisions are examined. One decision relied on is Duncan vs. 2d Municipality, 2d Louisiana Annual, p. 128. That decision was made in 1847, before the constitu-

tional rule of uniformity and equality of taxation came into existence, for by the terms of the constitution of 1845 the rule was not to be operative until 1848 (see Article 127, Appendix), a postponement recognized in the decision itself. The decision was upon an ordinance of the Second Municipality, passed in 1846, imposing a tax on real estate alone, and the decision was practically made under the Constitution of 1812, which did permit the selection of the objects of taxation. See the early case already cited, Oakey vs. New Orleans, 1st Louisiana Reports, p. 1. The observations thrown out in that case, with reference to Article 127 of the Constitution, relied on by the other side, are *obiter*. The decision settles nothing, except that a tax on real estate alone, levied in 1846, and decided before the rule of uniformity and equality came into existence, was valid taxation. So much for that decision, cited to rescue this tax of 1852. The other side rely, too, upon the case of Cumming vs. the City of Lafayette, 3 Ann., p. 673. It was the case of a license, on the occupation of a butcher. The Court does say in that case, that the rule of uniformity in the Constitution did not apply to municipal taxation. The observation was unnecessary. The license tax was valid on other grounds. It was a uniform tax exacted from all that pursued that avocation. See Burroughs on Taxation, p. 61, 6th Louisana Annual Reports, p. 586. Now, what pertinence has this license tax on a butcher, to the question whether the City of New Orleans can tax real estate, and by variant rates of taxation for the corporate debts. It was said by this Court in a series of cases, beginning with Ohio Life Insurance Company vs. Debolt, 16th Howard, p. 432," "if the contract when made was valid by the laws, as expounded by all the departments of the government of the State, and administered in its court of justice, its validity cannot be impaired by any subsequent legislative act or judicial decision." See, also, 1 Wallace, p. 176. 1st Dillon's

Municipal Bonds, p. 51, § 22: This boasted line of decisions to prop this tax of 1852, made *when* the tax of 1852 was attempted to be created, dwindles down to the case of Duncan, made before the rule of the Constitution of 1845 became operative, by which this tax is to be tested, and the case of the license exacted from the butcher, valid, wholly independent of the grounds on which this tax is assailed. Where then is the series of decisions, or even one, sustaining this form of taxation, when the tax was sought to be created in 1852?

But it is urged that in later decisions, our Supreme Court has held, that the articles of the Constitution prescribing the uniformity and eqality of taxation, do not apply to municipal taxation; that it has also sanctioned the right of the Legislature to select the class of property to be taxed, and if the selected class is taxed, by a uniform rate, the Constitution is satisfied. It is to be observed, however, that the rule of protection, which is recognized in the decisions of this Court, cited, against fluctuating decisions of the State Courts, is derived only, from decisions made at or prior to the time the tax was created, and on the faith of which, the bond is presumed to have been negotiated. The protection is not derived from decisions, made after. But the subsequent decisions do not affirm the tax of 1852.

Whatever the apparent force of the subsequent decisions, in which such observations occur, it completely disappears when the decisions are examined. The expressions contained in them, on which so much reliance is placed on the other side, have no necessary connection with the results accomplished by the judgments, in the cases to which the reference is made; and the judgments in fact, rest upon principles wholly independent of, and unaffected by any issue raised here under the articles of the Constitution.

These decisions exhibit, it will be found, a variance of opinion, which in itself would strip them of any authoritative

force; but that is unimportant, in view of the more serious consideration, which utterly excludes from this case, the operation of any principle settled in those cases under consideration. The cases cited by the other side may be distributed into classes.

Cases of contributions for levees, opening streets, assessments for banquettes, drainage of lands. See 4th Louisiana Annual Reports, p. 7; 9th Ibid. p. 446; 4th Ibid. p. 112; 5th Ibid. p. 363; 7th Ibid. p. 72; 11th Ibid. pp. 220, 338, 379; 16th Ibid. p. 59; 12th Ibid. p. 346; 20th An. p. 497; 26th An, p. 1, and the list might be made more formidable. But contributions and assessments of this nature, are known as assessments for local benefits, to be provided for by local taxation, levied only on the real estate benefitted. Burroughs on Taxation, p. 459, sec. 145; p. 471, sec. 148. These assessments are valid, under the Constitutional rule of uniformity and equality, in taxation, because imposed by a uniform rate, upon all the property benefitted.

Can it be seriously contended, that because the Supreme Court of Louisana have upheld local assessments, that therefore it has decided, that taxation for ordinary corporate purposes, can be put upon real estate alone, and at variant rates of taxation. It is true, in sustaining such assessments, the Supreme Court in some of the cases has assigned as a reason that the article in the Constitution regulating taxation did not apply to municipal taxation, and in other such cases, the expressions have been thrown out, that the Legislature might select the objects of taxation. But to sustain such assessments, there was no necessity for the Supreme Court, to exclude municipal taxation from the constitutional rule of uniformity. That municipal taxation should be restrained is universally admitted; that the Constitutional provision of uniformity in taxation does extend to municipal taxation is a proposition, which now none will dispute. See 2d Black. Rep., p. 510, Burroughs on Taxation, p. 62.

All that can be said of this class of decisions, is, that they sustain local assessments, but the reason assigned, relied on by the other side, were not at all necessary to be given, and it is not to be supposed, that the Supreme Court of Louisiana ever dreamed that such decisions were to be held up in 1880, to sustain the tax of 1852. To maintain upon such precedents, this tax of 1852, is too much to ask at the hands of any court. There is an appalling chasm, between the supposed precedents, and the decision expected by the other side, to be based upon them. Indeed, in our own State, such local assessments had been upheld in a series of cases under the Constitution of 1845, and no one ever suggested, that the Constitutional provision, was an element in the case until 9th An., 446.

Again, the other side rely upon the precedents of taxation, to build railroads, levied on real estate alone. Taxes for these purposes, must be deemed to fall within the rule of assessments for local improvements. The Court, in these cases, vindicate the tax, but upon grounds, the connection between which and anything involved here, is not obvious. The decisions affirm that a tax on real estate for a local improvement, i. e., to pay for stock in the corporation organized to build a railroad, may be levied upon real estate alone, in this city and parish. But they affirm nothing more. There is no legal alchemy, which can extract from these decisions a line, which, by any recognized mode of reasoning, can be invoked to sustain the totally disconnected propositions, sought to be sustained by the relator here.

Nor can more be said for other cases, relied on in this discussion, by the other side—8th Louisiana Annual, 365; 9 Louisiana Annual, 45; 10 Louisiana Annual, 454; 10 Louisana Annual, 730, 764, 732; 11 Louisana Annual, 145. It is hard to deal with argument, based on such cases. The importance attached to these cases on the other side, is, that they were brought on tax bills

of the city, which embraced the consolidated loan tax (10 An., 764, and others), and no tax payer raised any question of the validity of the tax. It is quite certain, no such question was raised. The cases affirmed the validity of newspaper citations, and, other disconnected questions disconnected from this controversy, as the most casual inspection shows. The supposed significance of such cases, as affecting the question here deserves no comment, and no place in this discussion.

Then there is the case of the succession tax upon property, in this State, inherited by non-residents, and other cases, affirming, that under the uniformity and equality provision, incomes may be excepted. These decisions are authoritative, to settle the particular questions involved in them, but the attempt to use such decisions to sustain this tax of 1852, carries its own comment.

Certainly, there is nothing in the decisions cited, which can be strained to extend to the variant rates of taxation, to operate within the limits of the same taxing power, attempted to be introduced by the act of 1852. The observations of the Supreme Court of Louisiana on this point are apposite, and are here reproduced. "If it be conceded, and we do not care to discuss "that proposition now, that under the Constitution of 1845, after "the year 1848, the Legislature or a municipal corporation could "select one species of property, and impose a tax upon that "species of property alone, excluding any other species of prop- "erty, made taxable by law, it would not thence follow that the "tax could be so levied on that species of property, whether by "the State or by a municipal corporation, that the rate on valua- "tion could be higher in one part of the State, if taxed by the "State, or in one part of the City, if taxed by a municipal cor- "poration, than in any and every other part of the State or cor- "poration. Our attention has not been called to any decision or "dictum sanctioning any such manifest injustice. But this is

" precisely what the Legislature did by Section 37, of the Act of " 1852."

The decision of the Supreme Court of Louisiana, in this case is an elaborate review of the cases, supposed by the other side to recognize the validity of the tax. To that review this Court is respectfully directed. It makes plain that neither in the tax itself, tested by the Constitution under which it is sought to be created, nor in the jurisprudence or legislation of Louisiana, does it possess the least validity.

Not only is there no jurisprudence sustaining the tax, but prior to 1875, there was no necessity to raise the question. In 1857, a tax-payer in the City of Lafayette, had raised the question, that the city could only levy the tax prescribed by the Act of 1852, superseded by the prohibition in the legislation of 1856 The decision of the then Supreme Court was, that the tax of 1852, was properly excluded by that legislation following the constitution. As to legislation then for twenty-five years, all have been confronted with this positive prohibition, of the tax now attempted to be enforced, claimed on the supposed authority of a line of precedents, and legislative recognitions.

But it is said in support of this tax, that the General Assembly have repeatedly affirmed it; that the city has asserted its validity. It is true, that for years the city paid the interest, from those means, which her past affluent condition afforded. Had not the resources of taxation, been affected by that same shrinkage which has overtaken all values, the interest would doubtless still be punctually paid. But this Court is now dealing with the issue, whether the tax demanded is Constitutional, and can be enforced. What has acquiescence, payment of interest and past

recognitions, to do with this question? What room is there, for such an estoppel? An estoppel based on such recognitions and acquiescence, is obviously out of place, in connection with the total absence of power, to levy the tax claimed, because it trancends the Constitution. "The general doctrine is, undoubtedly, that there is ordinarily no estoppel in respect to Acts which are in violation of the Constitution," observes Mr. Dillon in his work on Municipal Bonds, treating of "Laches, acquiescence, payment of interest and retaining consideration as grounds of estoppel." The Supreme Court of the United States, in Loan Association vs. Topeka (20 Wall., p. 667), speaking of bonds issued in violation of the Constitution, and the payment of interest, observes:

"We do not attach any importance to the fact that the town authorities paid one instalment of interest on these bonds. Such a payment works no estoppel. If the Legislature was without any power to authorize the issue of these bonds, and its statute attempting to confer such authority is void, the mere payment of interest, which was equally unauthorized, cannot create of itself a power to levy taxes, resting on no other foundation, than the fact, that they have been once illegally levied for that purpose."

It would be a strange construction of the protection of the Constitution, if, when the occasions arise to demand its observance, it could be held that it had lost its potency, against a statute, which itself, for a quarter of a century, has slept.

The tax was void by the terms of the article of the Constitution, which controlled the subject. It has stood prohibited on the statute books, since 1855. The judgments of the judicial tribunals decree it to be incapable of enforcement, and none impart to it the faintest countenance.

The only remaining point made on the other side as to the tax is *res judicata*, based on the decree in Maenhaut vs. The City of New Orleans, 2d Wood, p. 108, 3d

Wood, p. 3, and in Montgomery vs. The City, Record p. ——. The bill in equity filed in the first case, proposed a variety of relief. It asked for a decree that the Act of 1852 was a contract; that the first and paramount duty of the city was to provide the sum of $650,000, directed to be raised by the Act of 1852, not to be diverted by State or city; that the city be decreed to give priority to the bonds over those subsequently created; that the city be decreed to pay interest funds collected, and arrears of interest, and for an injunction to restrain their diversion, etc. Record, p. , referred to for greater certainty. The decree refused all relief, except to grant an injunction restraining the city from diverting interest funds, it had on hand, from the bondholders. See Record, p. . The Court was careful to make no decree, except to perpetuate the injunction. It is the decree alone, that constitutes the thing adjudged. It was an equity suit, in which no decree for a tax could be made, as the opinion itself states; 3d Wood, p. 4. Certainly, the relator must be pressed, to urge that the decree in the Maenhaut case, settles the right to have imposed the special tax of 1852, repulsive as it is to the organic law of Louisiana, as adjudged by its highest Court. Nor does the decision in the Montgomery case, afford the relator the least support. It was a suit on coupons of the bonds of 1852. It resulted in a money judgment. It determines that the relator is entitled to that money. It settles nothing more See Record, p. . See decision of the Supreme Court. of the State on pleas of *res judicata*. Record p. .

The attention of the Court, is now called to the other relief demanded by the relator, in its petition. The bonded debt of

the city of New Orleans, when this suit was brought, was about twenty millions, (Rec. p.), including consolidated bonds. The bonds of 1852 sued upon amount to about four millions. Rec. p. . All of these bonds have been issued by the city, under acts of the Legislature—detailed in the ~~appendix~~ hereafter—authorizing the issues, and passed from time to time, to meet the real or supposed necessities of the city government.

With this huge bonded debt, to be provided for, the complaint of the Relator is, that the city has largely increased its bonded debt, in violation of the act of 1852, and that the City Administrators have actually levied taxes upon the real estate of the city, and have applied these taxes "to such illegally issued bonds." This assault of the Relator, upon the total bonded debt of the city created since 1852, and the arraignment of the City Administration for presuming to recognize as part of the public burden, the other bonds, issued by precisely the same authority as authorized the issues of 1852, is accompanied in the petition, with an allusion to "the immensity of extravagance and corruption," which it is charged was the origin of the bonds subsequent to 1852. It is then alleged, that the act of that year, imposed "valid restraints upon the State and city, in reference to incurring new obligations." The section of the act, relied on by the Relator, in this connection, required the City Council annually to levy the Consolidated tax; it annulled all ordinances of the Council passed, without first levying that tax; it inhibited the Council from incurring new obligations without a vote of the people, and without providing means of payment. See Acts of 1852, Section 37, appendix, s. 37. These are substantially the restrictions in the Act of 1852, which it is claimed in the petition, forbade the issues of bonds of the various years from 1852 to 1876, and strike with nullity the taxes levied to pay such bonds.

It is insisted, by Relator that had the restrictions in the Act

of 1852, been observed, the debt of New Orleans would be but four millions and odd hundred thousand dollars, i. e., the Consolidated bonds of 1852, and the relief prayed is, that the City be compelled to levy the tax for Relator's bonds; that it be enjoined from levying other taxes to the prejudice of and without first providing for the Consolidated tax; *that the amount so raised be applied exclusively to pay the Consolidated bonds and coupons*, and that all other bonds be annulled if found to have been issued without authority. See Petition and prayer, Rec. pp. The spirit of the petition is, that the bonds of 1852 are legal; all others are to be thrust aside. All other bonds are anathematized by the consolidated bondholder. The City Administrators are held up to censure, in the petition, for "actually levying taxes to meet other bonds issued in violation of the act," and for applying the taxes, so illegally assessed to the payment of "said illegally issued bonds." The prayer for relief, is, commensurate with the allegations in the petition. The Administrators are to be ordered to levy the tax, directed by the Act of 1852; they are to be enjoined from levying any tax to the injury and prejudice of said Consolidated Loan Tax, and without first providing therefor, and that the amount *so raised be exclusively applied to pay bonds and coupons* held by Relator and others likewise situated—the additional relief demanded, that all other bonds be annulled, if found to be issued without authority it was deemed prudent to retire. Petition p. , prayer p. See motion to discontinue, Rec. p. In effect the petition demands that the public taxes be applied to Relator's bonds, to the exclusion of all others. It is not the imposition of his tax, merely, that he claims. But it is preference in the tax money, over all.

What sanctity have the bonds of 1852, over other public obligations? Is that sanctity to be sought in those allegations, in the petition, that attribute all the bonds of later origin to "an

immensity of corruption and extravagance?" Is it not the common experience that the huge mass of municipal indebtedness throughout the land, estimated by Mr. Dillon, in his work on Municipal Corporations, at the sum of nine hundred millions, found its origin to a great extent in precisely such sources, as the petition describes. But is that to be urged against the bondholder, who has paid his money for the bonds, or against the City Administrators, who recognize the extant bonds as part of the public debt? Is that to be the ground, on which the Courts are to be importuned by one class of bondholders, to levy taxes for their exclusive benefit?

The obligations of 1852, themselves represent the accumulation of municipal indebtedness down to 1852, that is: in the comparative infancy of the city, there was the large excess of debt over revenues, exhibited by the bonds of 1852. It is not to be supposed, that the Relator's bonds are themselves free, from that taint in respect to origin, that attaches to municipal obligations generally. What preference does the bondholder of 1852, create, then by the charge that all other bonds issued from 1852 to 1876, have originated in fraud and corruption? The issue of fraud, is between the people and their agents. It is not an element in the discussion, when the bonds are extant. The animadversions upon the City Administrators that they have presumed to recognize other bonded debts, fall harmless. The demand for the application of the public taxes, to one class, to the exclusion of other bond creditors, borrows no strength from the charge, that all bond obligations, other than those of 1852, were negotiated in fraud and corruption.

In our system of government, the function to levy taxes, lodged in the Legislative Department, it follows, that each Legislature, is invested with the power to decide, subject to the limitations of the Constitution, when and under what conditions, the

taxing power should be exerted. This freedom of legislative action, is essential to enable that department, to meet the varying wants and exigencies of the community. The taxing power cannot be bartered away, nor can its exercise by future Legislatures be fettered and restricted by conditions. Each Legislature called upon to deal with the taxing power, must be free and untrammeled. How puerile would it have been, if the Legislature of 1852, had undertaken to enact that no future Legislature should levy taxes without first procuring a popular vote, or without first creating a special tax for one class of bondholders, nor incur any debts whatever, without observing certain formalities. No Legislature could impair the tax of the bondholder. But as against any issue of bonds, and any levy of taxes, authorized by the Legislature of 1869, or of 1870, or of 1872, or of 1876, it is wholly nugatory for the bondholder of 1852, to hold up his legislative act of that year, and claim that it is effective, to deny future Legislatures, for all time to come, the power to authorize issues of bonds, and to levy taxes, without popular votes, or other conditions, prescribed by the Act of 1852. The bondholder of 1852 is, in advance of any definition of the contract of the bondholder, heretofore given. His claim is, that by the restrictions supposed to have been put on the taxing power by the Act of 1852, no bonds authorized by subsequent Legislatures, can have any share in the public taxes, until his obligations are satisfied. He has a mortgage upon the taxing power. His claims are special. It has his prerogative to be paid first out of the taxes, to the exclusion of other obligations. It is for him to arraign public officers, who presume to recognize other bonds and levy or assess taxes to pay them.

It is manifest, that the restrictions in the Act of 1852, were not designed to be placed on the Legislative Department. The prohibitions were expressed thus: From and after the

passage of this Act, it shall not be lawful for the City Council, to contract any debts without observing the formalities prescribed in that act, i. e, the popular vote: the preliminary provision for the Relator's tax: the devising means of paying the created debt, etc. It is obvious the Bondholder of 1852, cannot hold up these inhibitions put upon *the City Council*, as invalidating issues of bonds and provisions for taxes to pay such bonds, directed and authorized by the Legislature itself. Clearly the same Legislative power which in 1852 prescribed restraints upon the power of the Council, was competent in 1869, in 1870, in 1872 and in 1876 to dispense with such restraints. The effect of such conditions, as those contained in the Act of 1852, was construed in Amey vs. Alleghany County, 24th How., 373. They were invoked to invalidate a subsequent series of bonds, charged to have been issued by a municipal corporation in violation of provisions in the charter, similar to those contained in the Act of 1852. The complaint was that when the second issue of bonds was made, the limit of corporate indebtedness prescribed by the charter, had been already reached. This Court maintained the validity of the bonds. The Court observed with respect to the limitation, "it meant obviously that no increase of debt should be made by the Councils, but not intending that the Legislature might not authorize an increase beyond that amount." "The objection, said the Court, was founded on a misconception of the act." So in this case, the bondholder of 1852 evinces a total misapprehension of his legal rights, when he invokes restrictions in the Act of 1852, as annulling bond issues under competent authority, and as a basis to appropriate to himself, the public taxes to the exclusion of all, until he is paid.

The assault by the Relator upon the bonded debt created since 1852, and upon the tax levied for that debt, is in curious contrast with that connection, the Relator itself, appears from the legislative acts of 1869 and of 1870, to have had with a por-

tion of these bond issues, he now denounces. If the view of the Relator is correct, that the Act of 1852 was a valid restraint, both upon the State and city, to incur new obligations then, a conspicuous violation of the act, was the issue of five millions of bonds in 1869, "to enable the city to fund its floating debt and liquidate its indebtedness." It appears from the act of 1869, these bonds were placed in the hands of the fiscal agent of the city to be issued, two millions at par for the floating debt of the city, and three millions at par for city notes. By the subsequent act—that of 1870—"the Southern Bank, late fiscal agent, or such other bank as may receive from the Southern Bank any portion of the $5,000,000 bonds authorized by the act of 1869," was directed to cancel and destroy all said bonds remaining in the Southern Bank and not delivered to the parties entitled to them. See Acts of 1869, p. 4; Acts 1870, p. 46, S. 37, 38, Appendix. From the statement in these legislative acts it must be accepted that the Relator did not then deem this issue of bonds a violation of the Act of 1852, or it would not have had the connection with the transaction indicated by the acts. It had no anathemas then. It was not only acquiescent, but serviceable in putting in circulation the new obligations, notwithstanding the "valid restraints of the Act of 1852." Its superior appreciation of the "valid restraints upon the power of the State or city to incur new obligations," were suppressed. Its zeal of denunciation was reserved, until the more opportune period, when the bonds have been actually issued, in the hands of holders, and fastened on the city as part of the public debt. Its suspended censure now finds eloquent expression to enforce its preferred claim to taxation to the exclusion of all bonds, not even excepting those of 1869, with whose negotiation it had the connection stated in the acts. True, the Bank had no share in producing the conditions, that led to the issue of the bonds of 1869. Nor had the City Administrators of 1877,

against whom, the Bank makes its complaint that taxes were levied and applied to illegally issued bonds. The Act of 1869, preserved to the bondholders of 1852 all their rights. The bonds of 1869, after thirteen years were to have all the securities of the bonds of 1852, after their payment—Acts 1869, p. 47, sec. 6 of act. But that did not mean that the bonds of 1869 were to have no share at all in the taxes, until the bonds of 1852 were paid. On the contrary, the 6th section of the act directed the Common Council in the month of January of each year to provide out of the revenues of the current year sufficient to pay the interest and principal of the bonds. Revenues are derived by taxation. The bondholder of 1869, had then a right to share in the public taxes. Certain it is, that the Southern Bank would have had little success in negotiating the bonds, if its views of the Act of 1852, had then been announced. Few of the bondholders of 1869 would have taken the securities, if the Relator had then asserted its present pretensions, that its special tax be levied, that the city be enjoined from levying other taxes to its prejudice, and that the amount so raised by taxation be applied exclusively to its bonds and its coupons.

In 1854 the City was authorized to subscribe to the stock of railroads, to issue bonds to the amount of three millions five hundred thousand for the subscriptions, and to levy taxes for interest to pay the bonds. The Railroad Bonds were issued in accordance with the popular vote, the prominent prerequisite of the Act of 1852. The Relator in his attack upon the bonded debt created since 1852, does not except even the Railroad Bonds and tax levees for them. This Court has ordered the City to levy taxes for these bonds. U. S. ex rel. Ranger vs. the City, 98th U. S., p. 301.

The other bonds authorized to be issued since 1852 are here enumerated:

$1,000,000 under Act of 1868. Session Acts, p. 62.

$5,000,000 under Act of the Legislature of 1869. See acts 1869, p. 47.

$3,000,000 under Act of the Legisluture of 1870. Session Acts 1870, p. 47, Sec. 41.

$ 441,000 under Acts 1870. See Acts 1870, p. 41, Sec. 25.

$2,000,000 under Act of May 1st, 1871. Sessions Acts 1871, p. 233.

$3,100,000 under Act of 1872, p. 124, unlimited authority.

$9,000,000 Premium Bonds, under Act of 1876, which represetn the corresponding amount of old bonds funded into these premiums.

See table bonded debt in 1877. Rec. p.——

The legislative acts under which the city issued these bonds, convey the most ample authority for that purpose. The bonds and the taxes to pay the bonds, are manifestly beyond the reach of the Relator's attack.

In every point of view, it is submitted, the claim of the Relator to exclusive taxation, in presence of the bonded debt of this city, to be provided for by taxation, is unfounded. The Circuit Court in the case or Maenhaut vs. City, 3d Woods—p. 4, Judge Woods thus disposed of these pretensions, when urged on that Court.

"The contract between the city and the bondholders, contained in section 37 of the act of 1852, does not give the bondholders any priority of payment over other bondholders out of

the taxes on the real estate of the city. The contract entitles these bondholders to have levied on the real estate of the city, and paid them annually the sum of $650,000; and it entitles them to nothing more. The city may levy on real estate other snms to pay its current expenses or to pay its other debts.

"These bondholders derive no advantage from the fact that their bonds may be older than those held by other persons. If the city should levy and collect annually $650,000, to apply to the principal and interest of the issue of bonds held by complainants, and should so apply it, the contract of the city would be fully performed. The complainants would have no right to say that the city could not levy other taxes on its real estate or pay such taxes in any order it chose." See also Ranger vs. City, 2d Woods, p. 128.

As to the demand that taxes be levied for the years 1874 and 1875,it is shown they have been levied. See table of assessments made, showing the levies for 1874 and 1875. Rec. p. 132. The Relator is not entitled to fresh levies. That would make those of the tax payers, who have already paid for those years, pay twice. He must await the collection of taxes, levied for those years. In every year down to 1876, the necessary taxes for the Consolidated Loan debt was included in the general tax the city was authorized to levy. See Acts 1856, p. 685, p. 148, Sec. 42. Act 1870, p. 39, Sec. 18. See tables of taxation, Rec. p. . The Premium Bond tax was commenced to be levied in 1876, from which date provision ceased to be made for any other taxes, the Premium Bond tax being designed to be a subsititute for all.

The proposition that the Relator is not entitled to the special tax he claims; that his demand to have levied taxes for 1874 and 1875, would be to give him

double assessments, because up to January 1, 1876, the city assessed and levied taxes to pay the Consolidated Loan interest for those years; that his asserted right of preference to be paid out of the taxes, to the exclusion of other creditors, has no existence; that he has no case for an injunction against the City Administrators, prohibiting them from assessing and applying taxes to meet bonds forming part of the public debt, comprehends all that the case requires.

But the fierce animadversion which the Relator bestows on what is known as the Premium Bond Act of 1876, demands some notice. Courts of justice will not permit repudiation. They remove that barrier, when it is attempted to be interposed. The Relator has entered largely into the ethics of repudiation—wholly unnecessary in a legal discussion. In the facts, as they existed when the Premium Bond Act was passed, there is apparent the act was not designed as an aggression upon the rights of the bondholders. The act was supposed to be constrained, by financial difficulties of the gravest character. Instead of being intended to cast off all obligations, it was regarded by the Legislature which passed it, by the Council which carried it into execution, and by the large array of bankers, capitalists and others whose approval is attached to the Premium Bond plan (see appendix), as the only mode by which the city could avoid repudiation, and in time pay the corporate debts. The provisions of the act were accepted by bondholders holding a very large amount of the public securities, who funded their old bonds into Premium Bonds. It evinced their recognition of the financial difficulties that dictated the act. The bonds thus funded were clothed with all the sanctity that could be claimed for any bonds, yet they were surrendered for Premium Bonds drawing a lower rate of interest. Premium

Bonds now stand clothed with all the sanctity and binding force, attached to the indisputably valid bonds, which they represent. The bond creditors who thus funded their obligations into Premiums, set up no pretence that their bonds were invested with preferences over others. But it is quite certain that these old bonds, stood upon a basis as firm as can be claimed for Consolidated Bonds. They funded their old bonds because they recognized, the inexorable necessities that dictated the Premium Bond Act. The simple fact that they did fund, will have its weight to show that a large portion of those most interested, appreciated that [redacted] the best provision attainable had been made for the public creditors.

The Premium Bond Act did not please the Consolidated bondholder. Of course not. The only mode to placate that class, holding at the time about one-fifth of the bonded debt (see statement bonded indebtedness, Rec. p. .), is indicated in their prayer for relief. Whatever might be done for others, levy his tax; impose none other to his injury and prejudice; apply the amount raised exclusively to his bonds and coupons. Concessions to the public necessities might be asked of others, not of him. Premium Bonds might do for other creditors. His obligations were of a superior character. They were to be preferred. The public faith was to be kept with him: as to other bonds, not even excepting the bonds of 1869, with the negotiation of which the Southern Bank is linked; they were to be put aside until he was paid. The Relator was to be helped first, last and always. The accusation of violated faith to the public creditor made by the Relator finds suggestive contrast in his demand that all other bond creditors be set aside, and that the taxes be applied exclusively to his bonds and coupons. Before this Court it will doubtless have its weight, that the City Administrators, did not extend the least countenance to the exclusive pretensions of the Relator. The tenacity with which the Relator holds on to his security,

and rejects Premium Bonds, accepted by others, is not to be urged to his prejudice. But his effort to secure advantages to which he is not entitled over other public creditors, turns upon him that criticism he so freely expends upon the City Administrators who do not agree with him, that taxation belongs to the Consolidated bondholder, even in the qualified sense of his claim of preference, over all. His pretension in this regard have never had the slightest encouragement from the Courts. They were rejected by the Third District Court, although it gave him his tax. Record, p. . They were denied by the United States Circuit Court, in the case brought by another Consolidated bondholder—Maenhaut vs. The City, 3d Woods, p. 4. They were refused by the Supreme Court of the State, in its decisions in this case. Nor is it believed that persistency can strengthen their demands before this tribunal.

Down to 1876 the city of New Orleans assessed taxes adequate to pay the interest upon all its bonded debt, upwards of twenty million of dollars, the rate of interest upon the bonds varying 5 per cent. up to 10 per cent., the annual interest on all amounting to upwards of one million of dollars. But it was found impossible to collect the taxes. Each year found a large shortage in the amounts derived from taxation, to meet the interest on the bonds and the expenses of the city government.

Although to ~~Prior to and up to~~ January, 1876, the taxes were assessed for the total interest on the bonded debt, ~~but~~ the deficiencies in the tax collections each year, were plainly manifest. While interest was paid, there were large deficits for other corporate purposes. It was quite evident, that funds to pay the interest would soon cease to be derived from taxation, and the bondholder would go unpaid. At each session of the Legislature, applications were made for authority to issue bonds, to procure money to liquidate the floating indebtedness of the city

constantly increasing. Each batch of bonds was a confession of corporate bankruptcy, of inability to pay present obligations. The tax levies, however, continued to be made, for interest on the bonded debt. The taxable values each year diminished. See the table of assessments and taxation, Record p. No bondholder can complain that his troubles came from failure to levy taxes, prior to 1st January, 1876. The difficulty was graver. The premium bond act was not adopted in a period of affluence; it became a law only when the public treasury was depleted, and taxation had failed to bring its supply; when, if the history of that period has any force to commerce, nothing else was to be done which seemed to promise better results for the bondholders. Then, and not till then, was the Premium Bond adopted. The act is now held up to this Court by the Relator as a scheme of wanton repudiation of the public debt, when stern necessity alone compelled the city, to stop its interest payments and devise the expedient, thought to be found in the Premium Bond act. Its adoption followed a long period of bond issues by the city, not susceptible to be continued as a means of procuring money. Unless some remedy could be devised, bond creditors and all would go unprovided for. The corporate condition of bankruptcy is shown in the purposes for which the bonds were authorized to be issued. There are here detailed from the statute books.

Act 5th September, 1868—

$1,000,000 to meet current liabilities. Session Acts, p. 63.

Act 27th February, 1869, Acts, 1869, p. 46—

$5,000,000 bonds to liquidate floating debt and floating indebtedness, bonds put in hands of Southern Bank for negotiation.

City Charter of 1870, Sess. Acts 1870, p. 47, Sec. 41—

$3,000,000 to liquidate floating debt for paving streets when costs of paving were in excess of funds in treasury.

Act May 1st, 1871—

$2,000,000 to provide for unsettled floating debt and estimated deficiencies in *revenues owing to payment of arrearages of interest out of current revenues.*

Act 26th April, 1872—

Amount, not limited—bonds issued for unbonded debts existing December 31st, 1871, or caused by certificates for revenues, i. e., certificates issued for shortages in current revenues, and for excavations in levees, drainage and revetments.

These acts describe the condition that led to the act of 1876. With tax levies every year, for bondholders, and all, the results were shown in annual applications to the Legislature to borrow money, to bridge over current expenses. This case then, is not that of an obduracy that refused to impose taxes to pay the debts. The brand of gratuitous repudiation is applied by Relator because, when tax levies would not bring enough to provide for the corporate liabilities, a system of finance was adopted, deemed at the time to be the best that could be done, and so accepted by holders of a large amount of the bonded debt.

Doubtless the issues of bonds from 1868 to 1872, were to some extent, designed to aid legislative schemes of extravagance and corruption. That only aggravated the financial condition of the city. The deficiencies in revenues to meet current expenses: the accumulation each year of floating debt: illustrated as early as 1868, when $100,000 bonds were put out, to enable the city to discharge current expenses, shows that the great difficulty, was in collecting the taxes levied—nor did that fact fail to impress the judicial tribunals called on to deal with the subject. In Ranger vs. New Orleans, 2d Woods, p. 132, the U. S. Circuit Court (his Honor Judge Woods) used this language in a case where certain

bond creditors, sought to restrain the city from receiving scrip for taxes:

"But it is very clear to my mind, knowing as I am enabled to know from years of observation in this Court, the condition of the city finances, that it is impossible to collect these old taxes, running from the years 1860 to 1873, unless they are received in something less valuable than money. It is for the interest of this complainant and all the bondholders, that the city should be allowed to collect this tax in such funds as it is able to use in payment of its debts, and thereby relieve itself of its indebtedness to that extent.

"The affidavit of the City Administrator shows that if these taxes are demanded in money or legal tender currency they cannot be collected at all. I must therefore decline to allow the injunction to go to restrain the city from receiving city script in payment of its uncollected tax." In other words, this is the judicial recognition that arrears of a taxation from 1860 to 1873, could not be collected in money.

The relator arraigns the legislation of 1874, dispensing the city from levying any tax for the sinking fund for consolidated bonds. The act itself shows, the constraint under which it was passed, and the financial difficulties of the city. At a period when money enough could not be collected to pay even the interest, the proposition, for a time, at least, to remit the levy of a tax for the sinking fund, to purchase bonds, is at least stripped of the harsh feature of gratuitous repudiation. The act itself affirms the validity of the consolidated bonds. It recognizes the embarrassed "condition of affairs," and proposed to omit the tax for the sinking fund until December, 1876, to afford temporary relief to the tax payers. Nor did the relator seek any relief against the legislation at the time the act was passed. The relator is not estopped. But the act itself is alluded to in connection with the other circumstances, as an evidence that an impoverished condition; and not the inclination, dictated its passage. So, then it must impress this Court that with tax assessments, tax levies and all the machinery

going on, prior to the Premium Bond Act, the trouble was still that the funds were not to be had by taxation. It was under these circumstances that the Premium Bond act was passed, and its preamble is a graphic picture of the condition.

Whereas, The total debt, bonded and floating, of the City of New Orleans, has accumulated io an amount exceeding twenty-three millions of dollars. resulting from the occurence of the civil war, and from reckless expenditures of public moneys;

Whereas, ander the depressing influence of the consequences of the late war, and the disasters produced by the overflows in this State, and other causes, the taxable property of the City of New Orleans has become so redueed in value as to require taxation of the rate of at least five per cent. per annum to liquidate the debt as established by the acts authorized the various issues of the same; and

Whereas, The levying of a tax at so exorbltant a rate renders the collection impossible;

Whereas, *The continuation of the levying of a tax beyond the ability of the property to pay, leads* to a further destruction of the assessable property of the city, and the consequent shrinkage of the common pledge of the creditors, tending to a continuation of the present embarassment of the city affairs, and ultimate practical bankruptcy.

Whereas, the City Council of the City of New Orleans have adopted a plan for the liquidation of a city's indebtedness looking to the payment of creditors in full, obtaining thereby the indulgence necessary for the public well-being and the

The debtor with abundant ability to pay his debts, exposes himself to obloquy, by refusing to honor his obligations. Nor are excuses of inability, to perform obligations, to be readily accepted. But the conditions under which the Premium Bond Act was passed, are plainly depicted in those evidences, that must impress this Court. It was believed, that the creditors would accept some new provision, which would at least enable the city to pay, as far as it was in its power.

The act proposed to fund the whole city debt in the new bonds, to bear the reduced rate of five per cent. interest. Each year a certain number of bonds were to be redeemed, in principal and the whole debt of $20,000,000 was divided into ten thousand series of twenty thousand dollars each. Each year a certain amount of these series was to be redeemed. The series to be paid was to be determined by drawing from all the serial numbers, series of bonds up to the amount to be redeemed. The drawn series were entitled to premiums up to the amount to be redeemed. It was a scheme of finance which had proved successful elsewhere. The plan of redemption was graduated in a rising scale of taxation, low for the first years of depression, but with augmented taxation each year to meet the improvement in the public resources, and the consequent increased ability to pay taxes. The taxation for the first year was $307,500, to redeem $200,000 of bonds with premiums added. Rising from that minimum amount of taxation, and increasing the amount of bonds to be redeemed each year, the taxation for the second year was $426,250, bonds to be redeemed $300,000; the third year $509,000, bonds to be redeemed $330,000; the fourth year $619,000, bonds to be redeemed $420,000, until the taxation increased to one million four hundred and fifty thousand in the fiftieth year, by which period it was to be paid off. See plan of redemption in appendix. The scheme had the endorsement of the leading bankers and commercial men, some of them large bondholders, and nine millions of the bonded creditors accepted its provisions. The Consolidated bondholder had the right to reject the provisions of the act, and stand on his legal rights. But it is suggestive that the act found ready appreciation with a large number of bond creditors, holding indisputable obligations of the city, who accepted the act. The act has been in operation since 1876. It has undergone judicial investigation before the Circuit Court of the United States, and before the Supreme Court of the ~~United States~~ State. Its validity has been sustained by the de-

cisions of those tribunals. In Ranger vs. New Orleans, 2d Woods' reports, 134, where certain bond creditors, asserting preferred rights similar to those urged by the Consolidated bondholders, the Court, (His Honor, Judge Woods, now a member of this Court,) nsed this language:

"I will allow the injunction to go to prevent the city from "using for any other object, any of the money collected for "the purpose of paying interest on the bonds of the com- "plainant and others holding like bonds, but I must decline "to restrain the city from the receipt of scrip in payment of "the interest tax upon all the years running from 1860 to "1873, and must decline to interfere with the premium bond "plan. by enjoining the city from paying its debts as it "pleases."

In the case of the State ex rel. Lucas E. Moore vs. the City of New Orleans, the Court, in an elaborate opinion, approved the act as a valid provision for those of the public creditors who accept it. See 32d Louisiana Annual Rep., p. 727. The Supreme Court did not sustain that proviso in the 7th section of the act, which prohibited taxation for other contract creditors, entitled to taxation for their bonds, under the laws by authority of which the bonds issued.

No bondholder entitled to a tax, is bound by that provision in the act, which forbids the levy of any other than the premium bond tax. But the decision of the Supreme Court of the State, adjudges that the tax claimed by the relator is wholly unconstitutional. In that view, the prohibition of taxation in the act of 1876, is not the difficulty in the way of the relator. Without and irrespective of the prohibition, the bank has no right to the tax, it claims. If the relator is entitled to that tax he gets relief. But he cannot interfere with other taxes levied for other bondholders. What concern has the relator with the Premium Bond Act, in so far as it makes provision for other bondholders, provided its prohibitory provisions be

held nugatory with regard to any bondholder, entitled to a tax before the act was passed.

Premium bonds carry less interest than the old bonds exchanged for premiums. The payment of eleven millions of old bonds, funded into premium bonds, is postponed for fifty years. The act thus lifting a heavy burden, for so many years, necessarily improves the ability of the city to meet its other obligations. The act has the support of those most interested, the Premium Bond holders. It is open to all who choose to accept it. In no point of view, has the Consolidated Bond holder any right to complain of the Premium Bond act—except to demand that it be not forced on him, and whatever right he has under his contract, be secured to him—irrespective of the Premium Bond law. But he has no right to demand more.

It was no fault of the City of New Orleans, that taxes levied for the bonded debt, could not be paid. The Premium Bond Act was not a choice—except as a selection, to avoid total failure to pay. It is reasonable to suppose, too that it is not easy to adjust the bonded debt of this city, upon the basis of preference of one set of bond holders, over all others. It is believed, that should this Court adjudicate this controversy, its decision will convey the instruction, that public taxes are intended to be applied to pay the public creditors, without discriminating in favor of those who hold old bonds, and against those who hold new bonds, issued by the same political corporation. The view on this point expressed by the Circuit Court of the United States, and by the Supreme Court of the State, cannot fail to be enforced by this tribunal in any case, in which the adjudication of the Court can be had.

It is respectfully suggested that, should the objections to the tax fail to be sustained, as is not apprehended, the mandate should direct the mandamus to issue for such amount of the coupons as may be proved to be still held by Relator, or

those entitled to assert his rights, and that in any event the tax for the years 1874 and 1875 be refused, as levies for those years have been already made. Should there be any decree for the [illegible], these matters should be referred to the State Court charged with executing the mandates.

This cause was heard and decided by the Supreme Court of Louisiana, on the issue of the alleged right to have imposed, the special tax of 1852. That was the tax the Relator demanded. That was the tax, the Relator sought to maintain. The inferior Court granted the tax, but refused the relief prayed for by way of injunction against the application of the taxes to pay other bonds, and that the taxes be applied exclusively to Relator's bonds and coupons. The City appealed to the Supreme Court. The Supreme Court reversed the judgment, decreeing that the special tax of 1852, be imposed. That decree, of course, disposed also, of the injunction demanded. It is submitted the interpretation of the Supreme Court of Louisiana, contained in its elaborate opinion, demonstrates the plain repugnancy of the tax of 1852 to the organic law of Louisiana. It is believed, the opinion will command the ready assent of this Court. The opinion is on pp. of the Record.

Respectfully submitted,

B. F. JONAS,

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Attorneys for the City.

APPENDIX.

vs.

THE CITY OF NEW ORLEANS.

Appendix containing the Articles of the Constitution of Louisiana in respect to taxation, the 37th section of the Act of the Legislature of 1852, and the amendatory legislation of 1852, respecting the debt of the City of Lafayette, the Acts of the Legislature of 1856, Act No. 5 of the Legislature of 1870. The Act of 1836; Act of 1876, referred to in brief of defendant.

Provisions in the Constitution of Louisiana of 1845, in reference to taxation cited in brief:

"Taxation shall be equal and uniform throughout the State. After the year 1848 all property on which taxes may be levied in this State shall be taxed in proportion to its value, to be ascertained as directed by law, and no one species of property shall be taxed higher than another species of property of equal value, on which taxes shall be levied; the Legislature shall have power to levy an income tax, and to tax all persons pursuing any occupation, trade or profession." Art. 127.

Same article is contained in the Constitution of 1852, Article 123; Constitution 1868, Article 118; Constitution 1879, Article 203.

APPENDIX.

The 37th Section of the Act of 1852, so far as it relates to the tax invoked by Relator. Session Acts, p. 53.

"SEC. 37. *Be it enacted, etc.*, That the debt of the general sinking fund, commonly called the old city debt, and the debts of the three municipalities, whether in the form of bonds,

notes, interest coupons, cash warrants, or other species of obligation whatever, shall be assumed and paid by the City of New Orleans, and said city is hereby declared liable therefor. The Mayor, Comptroller and Treasurer, and chairmen of the Finance Committees of the two boards of the Common Council, shall constitute a commission, to be called the Commissioners of the Consolidated Debt of New Orleans; and they shall have power to issue bonds of the City of New Orleans, having not more than forty years to run, with interest payable at such place as may be agreed on between said Commissioners and the parties to whom the bonds are issued, in semi-annual coupons, in exchange for any bonds, obligations or debts of the old corporation, or of any of the old municipalities, whether matured or not, or to sell the new bonds and apply the proceeds to the payment of the matured debts of the old corporation or of the municipalities, but to no other purpose. The bonds thus issued shall form a stock to be called the Consolidated Debt of New Orleans. At the time this Act goes into operation, an exact and detailed statement of the indebtedness of the old corporation and of each municipality, shall be filed in the office of the Comptroller, by the Secretary of the Board of Liquidators and the municipal Comprtollers respectively, when the Commissioners of the Consolidated Debt shall proceed to divide the debt of the old corporation between the several municipalities, in proportion to the assessed value of real estate within the limits of each, according to the State assessment roll for 1851. The amount thus apportioned to each, together with its individual indebtedness at the time this Act goes into operation, shall constitute the separate debt of each municipality, and shall be known as the debt of municipality No. One, No. Two, No. Three. The Common Council shall, annually, in the month of January, pass an ordinance to raise the sum of six hundred thousand dollars, by a special tax, on real estate and slaves, to be called the Con-

solidated Loan Tax, and the rate per cent. of said tax, in each municipality, shall be in proportion to the indebtedness of each.

Amendatory legislation as to debt of City of Lafayette.

Section 5, Acts 1852, p. 56.

"*Be it further enacted, etc.*, That the debt of the City of Lafayette shall be assumed and paid by the City of New Orleans, and the said City of New Orleans is hereby declared liable therefor; and the amount of said debt shall be ascertained, and its payment provided for, and made in the same manner as the debt of each municipality of New Orleans is ascertained and provided for in the act to which this is a supplement; and in raising annually the consolidation loan tax for the payment of the debt of New Orleans, an additional sum of fifty thousand dollars shall be raised for the purpose of providing for the debt of the City of Lafayette, now added to that of New Orleans, so that the whole amount of the annual levy, of taxes for the payment of the debt of New Orleans, shall be six hundred and fifty thousand dollars."

The 42d Section of the Charter of New Orleans of 1856. Session Acts, p. 148.

SECTION 42. *Be it further enacted, etc.*, That the Common Council of the City of New Orleans shall, for the purposes of this act, once and not oftener, in each and every year, levy an equal and uniform tax upon all property, real and personal, in said city; but said tax added to the consolidated loan tax, and to the special tax for payment of the annual interest, on the bonds issued by the city for subscriptions to the stocks of the New Orleans, Opelousas and Great Western Rail Road Company, the New Orleans, Jackson and Great Northern Rail Road Company and the Pontchartrain Rail Road Company, shall not in the aggregate be more than one dollar and fifty cents on one hundred dollars of valuation, except in cases of invasion or insurrection: Provided it be sufficient to pay the

interest on the consolidated debts and railroad bonds issued by the City of New Orleans.

Acts of 1856, to limit and equalize municipal taxation in the City of New Orleans. Session Acts, p. 68.

"Whereas, the General Assembly has been memorialized by the citizens of New Orleans to equalize taxation in said city, and to limit the rate of taxation on real estate and slaves, to one and one-half per cent. on the assessed value thereof; and whereas, it has been demonstrated to this General Assembly that such a rate of taxation will produce, when levied on the seventy millions of that species of property, an amount ample and sufficient to pay annually the consolidated and railroad debts of said city, amounting together to eight hundred and seventy-two thousand dollars, and furthermore to leave a surplus of one hundred and seventy-eight thousand dollars, applicable to ordinary municipal purposes; and whereas, it is deemed prudent and expedient by this General Assembly to place some restraint upon the power of municipal taxation, and to render the same equal and uniform, according to the principles of justice and the provisions of the Constitution of the State; therefore,

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Louisiana in General Assembly convened,* That from and after the passage of this Act, it shall not be lawful for the Common Council of the City of New Orleans to levy any tax exceeding one dollar and fifty cents on every hundred dollars of the assessed valuation of real estate and slaves situated within the limits of said city, and subject to municipal taxation therein; provided, that such an amount shall be raised thereby as shall be sufficient to pay the interest of the present city debts together with the gradual reduction of the capital of the consolidated debt as required by the laws now in force.

SEC. 2. *Be it further enacted, etc.*, That from and after the passage of this Act, it shall not be lawful for the said Council to levy any tax on personal property or movables, exceeding the rate of taxation provided in the foregoing section of this Act, but in no case shall it be lawful for the said Council to levy any tax whatever, whether on real estate or slaves, or movables, which shall not be equal and uniform within the limits of or through the several districts of said city as now organized.

Act of 1869, p. 46, Sec. 3.

SEC. 3. *Be it further enacted, etc.* That to enable the City of New Orleans to fund and liquidate the balance of its floating debt now existing, such as judgments, outstanding warrants, etc., said city is hereby authorized and empowerod to issue bonds to the amount of two millions of dollars, in sums of fifty, one hundred, five hundred and one thousand dollars, payable twenty-five years from date, bearing interest at the rate of seven per cent. per annum, payable semi-annually, in the City of New Orleans or New York, at the option of the holders thereof, for which interest coupons shall be annexed to the bonds; which bonds, when issued, shall be *deposited wtih the fiscal agent of said city*, and shall be given by said fiscal agent exclusively in payment, at par, of debts now due by said city, other than those evidenced by city notes, a full and particnlar statement of which debts shall be prepared by the Controller and Treasurer of said city, verified by the Mayor and the members of the Finance Committees of the Boards of Aldermen and of Assistant Aldermen, and said statement of said debts, verified and attested as aforesaid, shall be furnished to the fiscal agent of said city; and it shall be the duty of said fiscal agent to give said bonds at par, in payment of the debts of said city to the creditors mentioned in said statement, or to their heirs or assigns.

Act of 1870, Sess. Acts, p. 46, Sec. 37.

SEC. 37. *Be it further enacted, etc.*, That the Southern Bank, late Fiscal Agent of the City of New Orleans, or such other bank or depositary, as may receive from the Southern Bank any portion of the five million of (*bonds*) [bonds] authorized to be issued, by the act approved the twenty-seventh of February, 1869, entitled: "An act to enable the City of New Orleans to fund its floating debt, and to liquidate its indebtedness," be, and hereby is directed and authorized to cancel and destroy, all of said bonds, which remain in the Southern Bank, or other depositary, and have not been delivered to the parties entitled to the same, on the day of the passage of this act. That said cancellation and destruction of said bonds, shall be done in the presence of the Mayor, Administrators of Finance and Public Accounts of the City of New Orleans.

The premium bond act, ordinances and plan of redemption of public debt referred to in the brief.

No. 31. AN ACT

To adjust, regulate and provide for the bonded debt of the City of New Orleans; to authorize the exchange of bonds of the City of New Orleans for other bonds, to be issued on the plan known as the premium bond plan; to adopt and give legislative sanction to the said plan as set out in ordinances Nos. 3130 and 3233, Administration Series of the City of New Orleans, approved on May 25 and August 31, 1875; to provide a fund to meet the semi-annual payments of the said bonds, known as premium bonds; to create a commission in the interest of creditors, and to give said commission the direction, control and management of the semi-annual allotments under said premium bond plan; to limit by contract the contracting of debt by the City of New Orleans; to limit taxation for all purposes therein, and to give relief to arrear tax-payers; to provide for the exchange of said premium bonds for other bonds in a certain contingency.

WHEREAS, The total debt, bonded and floating, of the City of New Orleans, has accumulated to an amount exceeding

twenty-three millions of dollars, resulting from the occurrence of the civil war, and from reckless expenditures of public moneys;

Whereas, under the depressing influence of the consequences of the late war, and the disasters produced by the overflows in this State, and other causes, the taxable property of the City of New Orleans has become so reduced in value as to require taxation at the rate of at least five per cent. per annum to liquidate the debt as established by the acts authorizing the various issues of the same; and

Whereas, The levying of a tax at so exorbitant a rate renders the collection impossible;

Whereas, The continuation of the levying of a tax beyond the ability of the property to pay, leads to a further destruction of the assessable property of the city, and the consequent shrinkage of the common pledge of the creditors, tending to a continuation of the present embarrassment of the city affairs, and ultimate practical bankruptcy;

Whereas, The City Council of the City of New Orleans have adopted a plan for the liquidation of the city's indebtedness looking to the payment of creditors in full, obtaining thereby the indulgence necessary for the public well-being and the maintenance of the public honor; therefore,

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Louisiana, in General Assembly convened,* That the Mayor and Administrators of the City of New Orleans, or such other officers, aldermen or administrators as may hereafter be ordained and established, be and they are hereby authorized and directed to exchange all recognized and valid bonds of the city of New Orleans and the late cities of Jefferson and Carrollton for bonds known as the premium bonds of the City of New Orleans, in accordance with the plan adopted by the City Council, and approved by the Mayor on the twenty-fifth May and thirty-first August, 1875. The said premium bonds shall be dated the first of September, 1875, and bear in-

terest at the rate of five per cent. per annum, from the fifteenth of July, 1875; they shall be signed by the Mayor, the Administrator of Finance, and the Administrator of Public Accounts, as commissioners of the consolidated debt, and countersigned, when issued, by such parties as the Council have designated heretofore, or may hereafter designate, with the authorization of the supervising committee hereafter named.

SEC. 2. *Be it further enacted, etc.*, That all outstanding bonds bearing interest shall have the interest computed up to the first day of July, 1875, and thereafter the said bonds, when exchanged, shall bear interest as provided in the ordinance above ratified, which provides for the premium bonds.

SEC. 3. *Be it further enacted, etc.*, That the allotment of series and premiums which have been made by virtue of ordinance No. 3233, Administration Series, adopted August 31, 1875, by the City Council, are hereby ratified and approved, and that further allotments shall take place on the fifteenth day of April and the fifteenth day of October of each year, and of premiums on the fifteenth day of January and the fifteenth day of July of each year, or on such other date as the Council may prescribe; provided that payments be not made later than the fifteenth day of March and the fifteenth day of September of each year.

SEC. 4. *Be it further enacted, etc.*, That a permanent committee of six citizens is hereby created to represent and supervise all matters and interest under the operation of this act; they and their successors shall at all times have free access to the records of the consolidated debt, and may exercise control and supervision over the allotments and premiums, the registry and cancellation of bonds as they may deem necessary, when not in conflict with the provisions of this act; they shall fill all vacancies in their number by death, resignation or otherwise. The said committee shall, at present, be composed as follows: John G. Gaines, Thomas A. Adams, August Bohn, J. H. Oglesby, Samuel H. Kennedy and George Jonas.

SEC. 5. *Be it further enacted, etc.,* That until all the bonds are funded as herein provided it shall be the duty of the commissioners of consolidated debt and the said supervising committee, immediately after the allotment of series, to invite by sealed proposals for the exchange of old bonds for drawn premium bonds remaining in the possession of the city; such proposals shall state the lowest price at which the old bonds are offered, payable in the drawn premium bonds valued upon their face, capital and interest; the said bids, if any to be opened by the commissioners of the consolidated debt and at least one of the said supervising committee, the right to reject any or all bids being reserved to the City Council; *provided,* that when bids are rejected, further offers shall be invited, either before or after distribution of premiums for exchange of all other bonds, or for cash, as the case may be.

SEC. 6. *Be it further enacted, etc.,* That it shall be the duty of the City Council, in the month of December of each year, or in the annual budget annually adopted for the ensuing year, to include an amount sufficient to meet and pay the principal and interest of the premium bonds, together with premium included, in the several allotments of series and premiums fixed for such year by the aforesaid ordinances and this act. It shall be the duty of the Council annually to levy an equal and uniform tax on all the assessed property within the corporate limits of the city, at a rate sufficient to provide the amount included in the budget as aforesaid; and said tax so levied shall constitute a special fund to be used for no other purpose than the payment of said bonds and interest on the said premiums comprised in said allotments; and the funds so raised shall be placed to the credit of an account to be called the premium bond account, and no money from said fund shall be paid out except on the joint authority of the commissioners of the consolidated debt. The said tax so to be raised shall be denominated the premium bond

tax, and shall be separately mentioned in the tax rolls and receipts; *provided*, that the taxable power of the corporation of the City of New Orleans for all purposes, including general administration, school, police, lighting, salary of officers, court expenses, and every other purpose of government, including the sum to be raised to pay the premium bonds, as above stated, shall never, until the full, complete and final payment of the said premium bonds, exceed the rate of one and one-half per centum on the dollar of all the assessed value of property subject to taxation within the limits of the said City of New Orleans. The above limitation of the taxable power of the corporation is hereby declared to be a contract, not only with the holder of the said premium bonds, but also with all residents and tax-payers of the said city, so as to authorize any holder of said premium bonds, resident or taxpayer, to legally object to any rate of taxation in excess of the rate herein limited. It being also a part of the consideration of this contract that the City of New Orleans shall be incompetent to incur any debt or obligation, as now provided by the constitution of this State, until the final payment and extinction of the premium bonds aforesaid.

SEC. 7. *Be it further enacted, etc.*, That no tax for the payment of bonds or interest on bonds other than that authorized by the preceding sections, shall be levied either for the year 1876, or any year or years thereafter by the City of New Orleans, and that all existing laws requiring or authorizing the City Council to levy any tax whatsoever for bonds or interest on bonds, other than said premium bonds, be and the same are hereby repealed; and it shall be hereafter incompetent for any court to mandamus the officers of said city to levy and collect any interest tax other than that provided in this act, or in case of such mandamus, by a receiver or otherwise, to direct the levy and collection on any such tax.

SEC. 8. *Be it further enacted, etc.*, That all bonds issued in

exchange for others, all allotments made and all things done by the City Council or the Mayor and Administrators, previous to the passage of this act, under and by virtue of said premium bond plan and the ordinances Nos. 3130 and 3233, be and are hereby approved and ratified, and are continued in force, and are recognized as having been lawfully done pursuant to powers vested in the Council by the Constitution and laws.

SEC. 9. *Be it further enacted, etc.*, That it shall be the duty of the City Council to at once prepare a statement in detail of the outstanding bonds of the City of New Orleans, to be funded as aforesaid, and whenever any of said bonds are funded for premium bonds, or offered to the city for drawn premium bonds or drawn premiums, the said bonded debt so exchanged shall be immediately canceled by the commissioners of the consolidated debt, and said supervising committee or member thereof shall prepare a statement of the bonds so canceled, to be made public.

SEC. 10. *Be it further enacted, etc.*, That no city property of any kind shall hereafter be sold or conveyed in any manner except the proceeds be applied to the reduction of the bonded or floating debt.

SEC. 11. *Be it further enacted, etc.*, That in addition to the obligation of the said city to provide annually the sum required for the execution of the premium bond plan, at least a tax of one half of one per cent. annually, to be used in the execution of the provisions of this act; and if the product of said half of one per cent. be more than adequate for the payment of the drawn premium bonds, and the premiums as above provided, then the surplus to be used in retiring the outstanding bonds; *provided*, said half of one per cent. taxation be considered as part of the one and a half per cent. taxation to which the taxing power of the city is limited in this act; the intention of this section being to limit the city taxation to one and one-half per cent. annually until the entire extinction of the bonded debt; to authorize the Council to levy annually out of the one and

one-half per cent. taxation a sum adequate to the annual execution of said premium bond plan, and after the year 1881 to levy at least one-half of one per cent. for the carrying out of said plan, and to distribute the surplus realized therefrom, if any, in retiring the outstanding bonded debt.

SEC. 12. *Be it further enacted, etc.*, That whenever under the operations of this Act the bonded debt of the City of New Orleans shall be reduced below eight millions of dollars, the creditors holding the same shall be entitled to convert the same into bonds bearing six per cent. interest per annum, payable in twenty years from their date, to be dated after the reduction aforesaid, the interest to be paid semi-annually. A sinking fund of at least two hundred thousand dollars to be provided fer along with the interest by adequate annual taxation, all the limitations hereinabove provided on taxation and debt to be applicable after the issue of said bonds until payment thereof.

SEC. 13. *Be it further enacted, etc.*, That all costs, interest and charges due on arreared city taxes up to the year 1875, inclusive, be and the same are hereby remitted; that it shall be the duty of the city government, immediately after the passage of this Act, to prepare a list of the valid outstanding floating debt of said city; that after the preparation of the list of the floating debt provided in this act any of said debt shall be receivable in payment of said taxes, as follows: For all taxes due previous to the year 1865, inclusive, the said outstanding floating debt shall be received by the said city at the rate of one hundred dollars of floating debt for two hundred dollars of taxes; for all taxes due from 1866 to 1873, inclusive, the said outstanding floating debt shall be received at par; *provided* said taxes shall be paid within the year 1876.

SEC. 14. *Be it further enacted, etc.*, That all drawn premium bonds shall be receivable by the city for all dues, licenses, taxes, and debts of any description at their face value and interest.

SEC. 15. *Be it further enacted, etc.*, That this Act in all its

provisions and limitations be held a contract between the city of New Orleans, the holders of said premium bonds, and the taxpayers or residents of said city, so as to authorize any of the contracting parties to resist any and all contracting of debt by the said city, or increase of taxation above the rate limited in the previous provisions of this Act.

SEC. 16. *Be it further enacted, etc.* That this Act take effect from and after its passage; that all laws or parts of laws inconsistent herewith be and the same are hereby repealed, and that all ordinances of the City of New Orleans conflicting with this Act be and are hereby repealed.

(Signed) E. D. ESTILETTE,
Speaker of the House of Representatives.

(Signed) C. C. ANTOINE,
Lieutenant Governor and President of the Senate.

Approved March 6, 1876.

(Signed) WILLIAM P. KELLOGG,
Governor of the State of Louisiana.

A true copy:
P. G. DESLONDE,
Secretary of State.

THE FINANCIAL CONDITION OF THE CITY.

Address of Creditors to the Public.

Messrs. Editor:

GENTLEMEN: Our city is making a great effort to free itself from the difficulties that embarrass its government. We deem it our duty to give it our encouragement and approval. We would deprecate the idea of thrusting our views upon others of different convictions, or to provoke angry discussions, but the gravity of the financial condition of our city, and the relations we occupy to those having most at stake, not only justify us, but imperatively demand that we should contribute something to the efforts now being made to obtain relief from existing grievous burdens.

It is well known that a suit has been instituted by a class of bond-holders who claim to be privileged creditors of the city. We are willing that their rights be tested before the courts and shall in good faith submit to their decision, but we desire that this part of the city debt may rest on its own merits, trusting to future events to arrive at satisfactory results and obliterate differences.

Our city Administrators have, after due deliberation, adopted a plan styled the "Premium Bond plan," by which the city can pay every cent of her debt, truly and surely and within a reasonable time.

This plan is no invention of theirs or of ours; it is well known in Europe, adopted by many large municipalities. It differs solely in the feature that they pay interest every three or six months, whereas with us, the interest is capitalized outside of the drawn series. This difference is owing to their bonds being given out for cash, and ours are exchanged for bonds, the interest of which the city finds itself unable to pay.

We have neither time nor space, nor is it our special province to argue here the merits of this plan. Suffice it to say that there has been presented to the Administrator of Finance the sum of upwards of four millions of dollars to be converted into Premium Bonds, which afford practical proof of the confidence in the arrangements and the soundness of the scheme by the parties whose names are hereto affixed. Whatever may be the issue of the suit to establish the status of the consolidated bonds, we believe and assert that the bondholders can, by uniformity of action, remove all dangers of bankruptcy and its accompanying train of evils. To repudiate would be to fix upon our community a blot of commercial dishonor that endless years of prosperity and fair dealing could not obliterate. No possible injury could result to the city bondholders within the length of time necessary to make a practical test of the plan proposed. A spirit of fair dealing alone would seem to justify that concession. The plan should not be condemned in advance. We ask the public to wait and see; it cannot be expected that every soul in this city can be convinced and understand such matters at a glance. The solution of questions of political economy and finances, under such difficult circumstances, requires special aptitude.

We further claim that any taxpayer, however small his tax, is directly interested in this Premium Bond plan, and it is the only possible way in which taxation can be reduced to its minimum, giving protection at the same time to the bondholders.

Trusting, Messrs. Editors, that you will kindly give this communication a place in your columns, we subscribe ourselves,

Yours very respectfully,

Signed: JNO. G. GAINES,
SAM'L H. KENNEDY,
THOMAS A. ADAMS,
J. H. OGLESBY,
AUG. BOHN,
GEO. JONAS,
} Committee.

[Here follows list of names of those who have funded:]

Crescent Mut. Ins. Co.
H. V. Ogden,
Ewen Stevens,
Jos. Hernandez,
Louis Schwartz,
E. Vorster,
Townsend & Lyman,
John Eckert,
A. Eimer Bader & Co.
J. Brette,
W. S. Donnell,
E. Chassaniol,
John Hughes,
S. M. Miller,
B. T. Walshe,
P. F. Tricou,
J. K. Dennett,
J. Strauss,
F. C. Aucoin,
Hy. Bier,
John E. Cassard,
Jules Cassard,
J. Cimarelli,
A. Baldwin & Co.,
H. Lichtenstein,
John Mangold,
L. Levy,
N. Daunoy,
Alcus, Scherck & Autey,
Factors and Traders' Ins. Co.
A. Vizard,
C. DeLassus, Agent,
B. Saloy,
D. D. Smith,
Chas. S. Abell,
F. T. Walker,
M. Bengert,
Geo. Purves,
New Orleans Mut. Ins. Ass.
Geo. S. Kausler,
P. L. Cusachs,
Behan, Thorn & Co.,
J. H. Webb,
H. H. Converse,
W. P. Converse & Co.,
Chas. Spitz,
Crescent City R. R. Co.,
J. J. Dwyer,
Herm. Roehl,
Germania National Bank,
Geo. W. Hynson, Agent,
Valentine Heermann,
Samuel M. Todd,
John Klein & Co.,
Tim Doherty,
C. H. Disque,
W. W. Washburn,
C. A. Winter,
W. Van Benthuysen,
DeBuys & Ogden,
Thos. H. Hunt,
H. O. Seixas,
Geo. H. Frost,
Jacques Lang,
H. M. Isaacson,
F. F. Case,
W. S. Deran,
T. J. Rodgers,
Ed. Murray,
P. O. Fazende,
Jules A. Blanc,
D. R. Carroll,
N. O. Female Orphan Asylum,
H. W. Benjamin,
Erich Brand,
A. Delvailles,
Mrs. Sam P. Blanc,
Kasper Auch,
B. H. Watkins,
T. T. White,
T. G. Ulhorn,
John Phelps & Co.,
Hy. Frellsen,
John L. Sterry,
F. Raquet,
D. A. Harris,
J. Nitsche,
Pelican Hook & Ladder Co.,
D. Bernhardt,
Joshua Skinner, Jr..
John Thorn,
J. C. Van Wickle,
Pat Dwyer,
J. A. Lusk,
E. Langsdorff.
C. T. Buddecke & Co.,

Peet, Willamson & Bowling,
F. O. Bigelow,
Germania Insurance Co.,
J. Armbruster,
Paul Berje,
Wm. Henry,
Jos. West,
Andrew Hero, Jr.,
Chas. Linck,
John Nelson,
J. L. Adams,
La. Equitable Life Ins. Co.,
C. T. Buddecke & Co.,
R. B. Kennedy,
Caleb Pennel,
Delgado & Co.,
Wm. Grant,
M. Harrison,
H. Bonnabel,
Thos. Cripps,
A. Jardet,
A. Lemore,
E. B. Hogan,
S. Reickert,
Chas. Fitz,
James H. Burdick,
Wm. Heyer,
A. Vizard,
Edward Booth,
H. Newgass,
U. Bettison,
Jas. Brandin,
L. A. Praderies,
J. Langshaw,
H. Meader,
Queyrouze & Bois,
Thos. Gleason,
Hellwege & Shaefer,
Emile Bouney,
J. Newman,
Theobald Forstall,
Edward Meyer,
Wm. Collins,
F. E. Richmond,
Jno. J. Pearson,
Thos. W. Slack,
M. McQuade,
Lafayette H. & L. Co.,
J. H. O'Connor,
Urban Theurer,
J. Borland,
N. Bowling,
Geo. W. Sweet,
S. C. Young, Jr.,
J. E. Seaman,
W. J. Behan,
George Porteous,
Lafayette Fire Ins. Co.,
J. Levois & Jamison,
B. Wayne,
J. M. Seixas,
W. G. Schaffer,
F. H. Hatch,
Richard Harrison,
Home Insurance Co.,
C. Taylor Gauche,
Louis Abrams,
W. B. Wood,
L. Stein.
Chas. N. Edwards,
F. Fisher & Son.,
H. Van Dine,
John H. Castellanos,
Wm. Bedell,
A. W. Brette,
Edwin T. Riley,
A. Durier,
J. P. Moore,
Jacob Hassinger,
J. Newman and Hy. Melne,
Dr. H. Curtius,
Thos. Gleason,
J. P. N. Baquie,
L. Bodin,
Henry Haag,
Moore, Janney & Hyams,
Thos. Duffy,
Norwood & Richard,
Edward Hansen,
Pierre Michel, Sr.,
Sam. P. Blanc,
Citizens' Savings Bank,
J. J. Weckerling,
E. Troisgros,
Geo. Soule,
Wm. Hageman,

Wm. Walsh,
W. T. Mayo,
H. Mossy,
Amedee Coutourie,
John D. Hamilton,
Chas. Whiting,
M. J. Farrell,
Christian Ax,
H. Aakerhaus,
Jno. J. O'Brien,
John McIntosh,
J. H. Keller,
Geo. Rehkopt,
N. O. City Railroad Co.,
Wm. Driscoll,
W. J. McCune,
E. L. Cohen,
S. Friedlander,
A. R. Montgomery,
Jos. Andrews, Jr.,
Thos. Finn,
Chas. T. Soniat,
A. Schadeli,
A. Desposito,
L. Grand,
Est. W. R. Bell,
A. H. White,
C. Hnrsted,
Jas. Goran,
Leopold Christ,
Hope Insurance Co.,
Geo. P. Crane,
J. L. Lyon,
Alex. Hill,
Est. F. M. Fish,
Leon Bertoli,
N. R. Stratton,
Milneburg Fire Co. No. 1,
Hy. Norman,
J. Sturtevant,
Girod Fund,
Raoul Jumonville,
R. M. Harrison,
W. H. Thomas,
Emile Maier,
Frank Vatter,
H. L. Burns,
N. Collamore,
Jas. J. Reiss,
J. Brandner,
R. C. Shortridge,
J. D. Mahoney,
C. Pleasants,
Jas. Lindsey,
Louis Bonnet,
F. Riesland,
G. Alfred Hero,
R. Batmule,
P. St. Amand,
Geo. Rice,
German Society,
H. & C. Tyler,
G. O'Neal,
H. Lochte,
Isaac Levi,
T. W. Kidder,
Leeds & Co.,
D. E. Colton,
Jas. Dwyer,
E. W. Burbank,
Eug. King,
A. V. Choppin,
E. Palfrey, Treaurer,
A. Dessomes,
Z. Bruenn,
and others.

20

SERIES 100.
BOND No. 9901.

SERIES 100.
BOND No. 9901.

20

PREMIUM BOND.

Pl. 1 D.

THE CITY OF NEW ORLEANS

Will pay to the Bearer TWENTY DOLLARS, with FIVE per cent. Interest per annum from 15th July, 1875, in accordance with the plan of redemption on the reverse hereof.

This Bond is issued in exchange for other Bonds of the City of New Orleans, as authorized by the Constitutional Amendment of the State of Louisiana, promulgated December 29th, 1874, in accordance with the Ordinance of the City Council.

New Orleans, Sept. 1st., 1875.

Countersigned by

.....

CHAS. J. LEEDS, Mayor.
E. PILSBURY, Admr. of Finance.
J. G. BROWN, Admr. of Public Accounts.
Commissioners of Consolidated Debt.

MAYORALTY OF NEW ORLEANS,
City Hall, May, 26, 1875.

[No. 3130—Administration Series.]

Resolved, That the Council cordially approve and adopt the plan submitted by the Administrator of Finance, entitled the "premium bonded fund of the City of New Orleans," and the Commissioners of the Consolidated Debt are hereby charged with the duty (by and with the advice and consent of the Council) to adopt the measures necessary to carry the same into execution.

Adopted by the Council of the City of New Orleans, May 25, 1875.

Yeas—Bertoli, Brown, Bouny, Burke, Landry, McCarthy, Pilsbury.

CHARLES J. LEEDS, Mayor.

A true copy.

J. H. HARDY, Secretary.

MAYORALTY OF NEW ORLEANS,
City Hall, June 2, 1875.

[No. 3140—Administration Series.]

An ordinance to fund the bonded debt of the City of New Orleans, and to provide for the redemption of the principal and interest thereof.

Be it ordained, That the commissioners of the consolidated debt be and are hereby authorized to invite, by publication, the presentation of bonds to be funded in twenty dollar premium bonds, in accordance with the plan submitted by the Administrator of Finance and adopted by the Council at its regular meeting of the twenty-fifth of May last, and approved by the Mayor.

Be it further ordained, That in order to participate in the first redemption, all bonds must be presented on or before the first day of September next, from which time further exchanges

will cease until the first allotment shall have been made. The holders of bonds thus funded will receive in cash at that date a pro rata of all interest funds to the credit of the respective series, and all coupons due and to become due shall be thereupon surrendered with the bond itself.

Be it further ordained, That the commissioners of the consolidated debt be and are hereby authorized to contract for proposals or otherwise for the printing and engraving of the premium bonds.

Adopted by the Council of the City of New Orleans, June 1, 1875.

CHARLES J. LEEDS. Mayor.

A true copy

J. H. HARDY, Secretary.

MAYORALITY OF NEW ORLEANS,
City Hall, August 31, 1875.

[No. 3233—Administration Series.]

An ordinance providing for the exchange of bonds for premium bonds, and to regulate and carry out the funding plan adopted by the Council.

Be it ordained, That the Administrator of Finance be and is hereby directed to exchange all recognized bonds of the City of New Oleans, also of the late cities of Carrollton and Jefferson, for premium bonds, in accordance with the plan adopted by the Council and approved by the Mayor on the twenty-fifth day of May, 1875. The said premium bonds shall be dated on the first of September, 1875, and bear interest at the rate of five per cent. per annum from the fifteenth day of July, 1875; they shall be signed by the commissioners of the consolidated debt and be countersigned when issued by such parties as the Council may hereafter select for that purpose.

Be it further ordained, That on all bonds funded or hereafter

to be funded under this ordinance the interest adjustment shall date from the first day of July, 1875, after which period the interest thereon shall cease.

Be it further ordained, That a permanent committee of six shall be appointed to represent the bondholders in all matters touching their interests under and in this ordinance. They and their successors shall at all times have free access to the records of the consolidated debt, and may exercise such control and supervision over the allotments, cancellation and registry of bonds as they may deem necessary. They shall fill all vaccancies among themselves, and may, in their discretion, appoint a suitable person to act for them in all matters relating thereto.

The committee shall at present be composed of John G. Gaines, president of the Citizens' Bank; Thomas A. Adams, president of the Crescent Mutual Insurance Company; Aug. Bohn, president of the Mechanics' and Traders' Bank; George Jonas, president of the Canal Bank; J. H. Oglesby, president of the Louisiana National Bank; Samuel H. Kennedy, president of the State National Bank.

Be it further ordained, That the bonds funded under this ordinance, except those which shall have been redeemed, shall not be canceled or destroyed before the month of April, 1876. They shall be registered by number, marked, labeled and deposited in a safe manner until the period named.

Be it further ordained, That the first allotment of series shall take place on the fifteenth day of September, or as soon thereafter as possible, and the first allotment of premiums on the fifteenth day of January, 1876, fixed. All subsequent allotments of series shall take place on the fifteenth of April and fifteenth of October; and of premiums on the fifteenth of January and fifteenth of July.

Be it further ordained, That until all the bonds herein pro-

vided for are funded, it shall be the duty of the Administrator of Finance, immediately after the allotment of series, to invite by sealed proposals the exchange of old bonds for the drawn premium bonds remaining. Such proposals shall state the lowest price at which the old bonds are offered, payable in the drawn premium bonds, at face value and interest. The right to reject any and all bids to be reserved by the Council.

Be it further ordained, That all drawn series or numbers of premium bonds shall be received by the city for all dues, licenses, taxes or debts of any description at their face value and interests.

Be it further ordained, That all ordinances or parts of ordinances in conflict herewith be and are hereby repealed.

Adopted by the Council of the City of New Orleans, August 31, 1875.

Yeas—Bertoli, Brown, Bouny, Burke, Landry, McCarthy, Pilsbury.

CHARLES J. LEEDS, Mayor.

A true copy :

J. H. HARDY, Secretary.

MAYORALTX OF NEW ORLEANS,
City Hall, October 6, 1878.

[No. 3266—Administration Series.]

Be it ordained, That J. Villarubia, Ulger Lauve and N. B. Phelps be and are hereby authorized to countersign premium bonds.

Adopted by the Council of the city of New Orleans, October 5, 1875.

CHARLES J. LEEDS, Mayor.

A true copy :

J. H. HARDY, Secretary.

MAYORALTY OF NEW ORLEANS,
City Hall, January 19, 1876.

[No. 3364—Administration Series.]

Be it ordained, That in all cases where proposals for the exchange of bonds have been received and rejected, bids shall again be invited, either before or after the distribution of premiums, for exchange of bonds or for cash, as the case may be, and all such subsequent offers may include the undrawn premium bonds on the same footing as any other bond.

Be it further ordained, That the commissioners of the consolidated debt be and are hereby instructed to advertise for sealed proposals for the sale to the city of $350,000 of old and premium bonds.

Adopted by the Council of the city of New Orleans, January 18, 1876.

CHARLES J. LEEDS, Mayor.

A true copy:

J. H. HARDY, Secretary.

MAYORALTY OF NEW ORLEANS,
City Hall, April 19, 1876.

[No. 3471—Administration Series.]

Be it ordained, That hereafter the allotments of series of premium bonds shall take place quarterly, to-wit: On the thirty-first of January, fifteenth of April, thirty-first of July and fifteenth of October of each year; *provided,* however, that in all cases where these respective dates shall fall upon a *dies non* they shall be postponed until the next legal day thereafter.

Adopted by the Council of the city of New Orleans, April 18, 1876.

CHARLES J. LEEDS, Mayor.

A true copy:

J. H. HARDY, Secretary.

PLAN OF REDEMPTION.

DATE.	Drawings	Series.	Value of Bonds & Interest.	No. Bonds Redeemed Semi-Ann'y.	Amt of Dols Semi-Annually.	Premiums Paid Semi-Annually	Total Am't of tax req'd Annually.
	Janu'ry	50	20½	5000	102500	50000	
1876	July	50	21	5000	105000	50000	307500
	Janu'ry	75	21½	7500	162250	50000	
1877	July	75	22	7500	165000	50000	426250
	Janu'ry	90	22½	9000	202500	50000	
1878	July	90	23	9000	207000	50000	509500
	Janu'ry	105	23½	10500	246750	50000	
1879	July	105	24	10500	252000	50000	598750
	Janu'ry	105	24½	10500	257250	50000	
1880	July	105	25	10500	262250	50000	619750
	Janu'ry	105	25½	10500	267750	50000	
1881	July	105	26	10500	273000	50000	640750
	Janu'ry	105	26½	10500	278250	50000	
1882	July	105	27	10500	283500	50000	661750
	Janu'ry	105	27½	10500	288750	50000	
1883	July	105	28	10500	294000	50000	682750
	Janu'ry	105	28½	10500	299250	50000	
1884	July	105	29	10500	304500	50000	703750
	Janu'ry	105	29½	10500	309750	50000	
1885	July	105	30	10500	315000	50000	724750
	Janu'ry	105	30½	10500	320250	50000	
1886	July	105	31	10500	325500	50000	745750
	Janu'ry	105	31½	10500	330750	50000	
1887	July	105	32	10500	336000	50000	766750
	Janu'ry	105	32½	10500	341250	50000	
1888	July	105	33	10500	346500	50000	787750
	Janu'ry	105	33½	10500	351750	50000	
1889	July	105	34	10500	357000	50000	808750
	Janu'ry	105	34½	10500	362250	50000	
1890	July	105	35	10500	367500	50000	829750
	Janu'ry	105	35½	10500	373750	50000	
1891	July	105	36	10500	378000	50000	850750
	Janu'ry	105	36½	10500	383250	50000	
1892	July	105	37	10500	388500	50000	871750
	Janu'ry	105	37½	10500	393750	50000	
1893	July	105	38	10500	399000	50000	892750
	Janu'ry	105	38½	10500	404250	50000	
1894	July	105	39	10500	409500	50000	913750
	Janu'ry	105	39½	10500	414750	50000	
1895	July	105	40	10500	420000	50000	934750
	Janu'ry	100	40½	10000	405000	50000	
1896	July	100	41	10000	410000	50000	915000
	Janu'ry	100	41½	10000	415000	50000	
1897	July	100	42	10000	420000	50000	935000
	Janu'ry	100	42½	10000	425000	50000	
1898	July	100	43	10000	430000	50000	955000
	Janu'ry	100	43½	10000	435000	50000	
1899	July	100	44	10000	440000	50000	975000
	Janu'ry	100	44½	10000	445000	50000	
1900	July	100	45	10000	450000	50000	995000
	Janu'ry	100	45½	10000	455000	50000	
1901	July	100	46	10000	460000	50000	1015000
	Janu'ry	100	46½	10000	465000	50000	
1902	July	100	47	10000	470000	50000	1035000

PLAN OF REDEMPTION—Continued.

DATE	Drawings	Series.	Value of Bonds & Interest.	No. Bonds Redeemed Semi-Ann'y.	Amt of Dols Semi-Annually.	Premiums Paid Semi-Annually.	Total Am't of tax req'd Annually.
	Janu'ry	100	47½	10000	475000	50000	
1903	July	100	48	10000	480000	50000	1055000
	Janu'ry	100	48½	10000	485000	50000	
1904	July	100	49	10000	490000	50000	1075000
	Janu'ry	100	49½	10000	495000	50000	
1905	July	100	50	10000	500000	50000	1095000
	Janu'ry	100	50½	10000	505000	50000	
1906	July	100	51	10000	510000	50000	1115000
	Janu'ry	100	51½	10000	515000	50000	
1907	July	100	52	10000	520000	50000	1135000
	Janu'ry	100	52½	10000	525000	50000	
1908	July	100	53	10000	530000	50000	1155000
	Janu'ry	100	53½	10000	535000	50000	
1909	July	100	54	10000	540000	50000	1175000
	Janu'ry	100	54½	10000	545000	50000	
1910	July	100	55	10000	550000	50000	1195000
	Janu'ry	100	55½	10000	555000	50000	
1911	July	100	56	10000	560000	50000	1215000
	Janu'ry	100	56½	10000	565000	50000	
1912	July	100	57	10000	570000	50000	1235000
	Janu'ry	100	57½	10000	575000	50000	
1913	July	100	58	10000	580000	50000	1255000
	Janu'ry	100	58½	10000	585000	50000	
1914	July	100	59	10000	590000	50000	1275000
	Janu'ry	100	59½	10000	595000	50000	
1915	July	100	60	10000	600000	50000	1295000
	Janu'ry	100	60½	10000	605000	50000	
1916	July	100	61	10000	610000	50000	1315000
	Janu'ry	100	61½	10000	615000	50000	
1917	July	100	62	10000	620000	50000	1335000
	Janu'ry	100	62½	10000	625000	50000	
1918	July	100	63	10000	630000	50000	1355000
	Janu'ry	100	63½	10000	635000	50000	
1919	July	100	64	10000	640000	50000	1375000
	Jrnu'ry	100	64½	10000	645000	50000	
1920	July	100	65	10000	650000	50000	1395000
	Janu'ry	100	65½	10000	655000	50000	
1921	July	100	66	10000	660000	50000	1415000
	Janu'ry	100	66½	10000	665000	50000	
1922	July	100	67	10000	670000	50000	1435000
	Janu'ry	100	67½	10000	675000	50000	
1923	July	100	68	10000	680000	50000	1455000
	Janu'ry	100	68½	10000	685000	50000	
1924	July	100	69	10000	690000	50000	1475000
	Janu'ry	100	69½	10000	695000	50000	
1925	July	100	70	10000	700000	50000	1495000
	Series.	10000		1000000	45428000	5000000	50428000

SEMI-ANNUAL PREMIUMS.

1	Premium of	$5000	$ 5000
5	"	1000	5000
20	"	500	10000
50	"	100	5000
100	"	50	5000
1000	"	20	20000
1176	Premiums		$50000

This Schedule of Premiums may be revised hereafter without reducing the amount.